

116C

IN THE SUPREME COURT OF INDIA
EXTRA ORDINARY ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 494 OF 2012

IN THE MATTER OF:

Justice K.S. Puttaswamy (Retd.) & Anr. Petitioners

Versus

Union of India and Ors.

Respondents

COUNTER AFFIDAVIT ON BEHALF OF THE
RESPONDENT No.1

PAPER-BOOK

(FOR INDEX KINDLY SEE INSIDE)

Received copy
Rakesh
23/03/2013

ADVOCATE FOR THE RESPONDENT: D.S. MAHRA

INDEX

| S. No. | Particulars | Page No. |
|-----------|---|----------|
| 1. | Counter Affidavit on behalf of Respondent No.1 | 143-166 |
| 2. | ANNEXURE P-1 Copy of the Notification dated 28.01.2009. | 167-173 |
| 3. | ANNEXURE P-2 Copy of the each of the National Identification Authority of India Bill, 2010 (NIDAI Bill) dated Nil. | 174-295 |
| 4. | ANNEXURE P-3 Copy of the 42th Report of the Standing Committee on Finance dated Nil. | 296-384 |
| 5. | ANNEXURE P-4 Copy of the Citizenship Act, 1955 dated Nil. | 385-425 |
| 6. | ANNEXURE P-5 Copy of the document showing list of Pol and PoA documents accepted by UIDAI dated Nil. | 426-432 |
| 7. | ANNEXURE P-6 Copy of the extract of Section 14-A of the Citizenship Act, 1955 dated Nil. | 433-434 |

IN THE SUPREME COURT OF INDIA
EXTRA ORDINARY ORIGINAL JURISDICTION
PIL/WRIT PETITION (CIVIL) NO. 494 OF 2012

IN THE MATTER OF:

Justice K.S Puttaswamy (Retd.) & Anr. ... Petitioner

Versus

Union of India & Ors ... Respondent

COUNTER AFFIDAVIT

ON BEHALF OF RESPONDENT

I, Ashish Kumar S/o Shri V. Kumar aged, 48 R/o C-II/2178, Vasant Kunj, New Delhi-110070 do hereby solemnly affirm and declare on oath as under:

1. That I am working as Assistant Director General and therefore, have been to authorized to swear this affidavit. It is stated that, I am well conversant with the facts of the matter as derived from official records and, therefore, competent to sign and swear the present affidavit.
2. That the contents stated in the present Writ Petition (Civil) are mischievous and have been filed in ignorance of the well established principle of Constitutional law and the law laid

down by this Hon'ble Court in a number of judgments and hence the same is not maintainable in the eyes of law.

3. That the present Writ Petition in the guise of the Public Interest Litigation is without any basis and therefore, the contents and averments stated in the present Writ Petition are denied unless specifically admitted by the answering deponent.

4. That the present Writ Petition (Civil), neither raises any question of law pertaining to the Constitution of India which needs interpretation of this Hon'ble Court nor substantiates as to how the issuance of the 12 Digit Aadhaar Number by the Unique Identification Authority of India, to the residents of India on a voluntary basis amounts to an invasion of the Right to Privacy guaranteed to the subject/s under Article 21 of the Constitution of India.

Therefore, the present writ petition fails to disclose the infringement of the Fundamental Right enshrined under Part III of the Constitution of India and hence is not maintainable under Article 32 of the Constitution of India and therefore, fit to be dismissed with exemplary cost.

5. That the Present Writ Petition filed by the Petitioner does not deal with the well established principle of law laid down by this Hon'ble Court in a catena of the judgment/s with regard to the

145

question raised in the instant petition, and therefore, the respondent craves leave of this Hon'ble Court to deal with the same in the backdrop of the background/history of the issuance of the Aadhaar Number/s by the Unique Identification Authority of India (UIDAI). The Respondent further craves leave of this Hon'ble Court to raise the preliminary objection before giving reply to the facts of the case.

BACKGROUND OF AADHAR SCHEME

The Aadhaar scheme is the unique identification project launched by the Government of India and is being implemented by the Unique Identification Authority of India (UIDAI). A copy of the notification dated 28.01.2009, through which the UIDAI was set up is annexed herewith as ANNEXURE-P/1. It is submitted that, Aadhaar is a 12-digit unique number which the UIDAI issues to all residents in India on a voluntary basis. The number will be stored in a centralized database and linked to the basic demographics and biometric information – photograph, ten fingerprints and iris -- of each individual. It is verifiable in an online, cost-effective way. It is unique and robust enough to eliminate the large number of duplicate and fake identities in Government and private databases. The random number generated is devoid of any classification based on caste, creed, religion and geography.

UIDAI enrolls residents through the multi-registrar enrollment model using verification processes prescribed by it as this will ensure that the data collected is clean right from the beginning of the programme. It is further submitted that much of the poor and underserved population lack identity documents and the UID may be the first form of identification they will have access to. The Authority to ensure that the Know Your Resident (KYR) standards do not become a barrier for enrolling the poor, has devised suitable procedures to ensure their inclusion without compromising the integrity of the data. The NPR is an important partner registrar in the enrollment process.

6. PRELIMINARY SUBMISSIONS:

(i) That it is submitted that the present petition is devoid of any merit as it fails to substantiate as to how the issuance of AADHAR number by the Unique Identification Authority of India (UIDAI), to the residents in India on a voluntary basis amounts to an invasion to the Right to Privacy, comprehended under Article 21 of the Constitution of India and therefore, the present petition is not maintainable under Article 32 of the Constitution of India.

(ii) That it is respectfully submitted that the present Writ Petition has been filed in ignorance of the law laid down by this Hon'ble Court and the various other High Courts in a catena of the Judgment/s wherein the scope and ambit of Article 73 of the

Constitution of India, has been dealt with elaborately and therefore, the present Writ Petition does not raise a substantial question which needs interpretation of the Constitution.

(iii) That the Present Writ Petition only raises a question pertaining to the scope and ambit of Article 73 of the Constitution of India. It is submitted that this Hon'ble Court in J.R. Raghupathy v/s State of A.P. [(1988) 4 SCC 364], has categorically held that, on the perusal of Article 73 and 162 of the Constitution of India, prima facie it appears that the executive powers of Union and States under Article 73 and 162 of the Constitution of India are much wider than the prerogative powers in England. In the interest of the administration of the country, the executive have an important role to play in the governance of the country as the judiciary or legislature. Therefore, this Hon'ble Court including the various High courts have time and again, while interpreting Article 73 of the Constitution of India it held that where the Constitution does not require an action to be taken only by legislation or there is no existing law to fetter the executive power of the Union (or the State as the case may be), the Government would not only be free to take such action by an Executive Order or to lay down a policy for the making of such Executive Orders as occasion arises, but also to change such orders or the policy itself as often as the Government so requires subject to the condition that, such change must be made in the exercise of a reasonable discretion and not arbitrarily, the making or changing of such order is made known to those concerned and it complies with

Article 14, so that persons equally circumstanced are not treated unequally.

(iv) That in a well known case the Kerala High Court, in *Rev. Fr. Joseph Valamangalam and Others Vs State of Kerala* [AIR 1958 Kerala 290], has held, that, the legislature is in the process of making a law governing the matters covered by the policy/orders, does not in any manner affect the executive power of the state in respect of those matters until the law is actually made. It is submitted that, legislation in House upon a particular subject is a complex process. Therefore, when a Bill comes up before a House for general discussion, it is open to that House to refer it to a Select Committee of the House or a Joint Committee of the two Houses. A motion has to be moved and adopted to this effect in the House in which the Bill comes up for consideration. The Select or Joint Committee considers the Bill, clause by clause just as the two Houses do. Amendments can be moved to various clauses by members of the Committee. The Committee can also take evidence of associations, public bodies or experts who are interested in the Bill. After the Bill has thus been considered, the Committee submits its report to the House. Members who do not agree with the majority report may append their minutes of dissent to the report. Therefore, it is quite clear that the amendments brought by the Standing Committee of the Parliament with respect to the Bill submitted to it is neither binding on the Parliament nor becomes a rider on the

executive action of the Government taken under article 73 of the Constitution of India.

(v) That it is respectfully submitted that the present Writ Petition fails to disclose as to how the issuance of Aadhaar Number to the resident/s of India, on a voluntary basis amounts to an infringement of Fundamental Rights guaranteed to the subject/s under Part III of the Constitution of India. It is stated that just because the Standing Committee of the Parliament has rejected the Bill or has suggested some amendments does not in any manner becomes a rider on the Government in implementation of its scheme under Article 73 of the Constitution of India. Its action may be criticised and condemned in the House of Legislature or outside but this does not amount to an infraction of the Fundamental Right guaranteed under Part III of the Constitution of India. Therefore, since no Fundamental Right in the present case which can be said to have been infringed by the action of the Government, the Petition is bound to fail on that ground. A copy each of the National Identification Authority of India Bill, 2010 (NIDAI Bill) and the 42nd Report of the Standing Committee on Finance are annexed herewith as ANNEXURE P/2 and ANNEXURE P/3 respectively.

7. PARAPARAWISE REPLY:

7.1 That the contents of ParaPara 1 of the Writ Petition are mischievous and hence disputed and denied. It is submitted that Aadhaar Number to the residents, on a voluntary basis, does not in any manner amounts to an infringement of Fundamental Rights

guaranteed to the Subject/s under Part III of the Constitution of India. The Consent of the individual is a sine qua non before issuing a Aadhaar Number and therefore, it is a voluntary project with the object to promote inclusion and benefit to the marginalized sections of society who have no formal proof of identity vis-à-vis the State and hence experience difficulties in accessing various welfare schemes that are implemented by the Government of India and State Governments. It is stated that just because the Standing Committee of the Parliament has rejected the Bill or has suggested some amendments does not in any manner becomes a rider on the Government in implementation of its scheme under Article 73 of the Constitution of India. Its action may be criticised and condemned in the House of Legislature or outside but this does not amount to an infraction of the Fundamental Right guaranteed under Part III of the Constitution of India. Therefore, since no Fundamental Right in the present case which can be said to have been infringed by the action of the Government, the Petition is bound to fail on that ground.

7.2 That contents and averments of Parapara 2(a)&(b) do not raise any question of law for the purpose of the interpretation of the Constitution of India as the question framed under these paraparas have categorically been discussed by this Hon'ble Court and various High Courts in a catena of Judgment/s. It is submitted that the Kerala High Court, while discussing the scope and ambit of Article 73 of the Constitution of India, has categorically held in Rev. Fr. Joseph Valamangalam and Others Vs State of Kerala [AIR 1958 Kerala, 290], that, the legislature in the process of making a law

governing the matters covered by the policy/orders, does not in any manner affect the executive power of the state in respect of those matters until the law is actually made. The legislation in House upon a particular subject is a complex process. Therefore, when a Bill comes up before a House for general discussion, it is open to that House to refer it to a Select Committee of the House or a Joint Committee of the two Houses. A motion has to be moved and adopted to this effect in the House in which the Bill comes up for consideration. The Select or Joint Committee considers the Bill, clause by clause just as the two Houses do. Amendments can be moved to various clauses by members of the Committee. The Committee can also take evidence of associations, public bodies or experts who are interested in the Bill. After the Bill has thus been considered, the Committee submits its report to the House. Members who do not agree with the majority report may append their minutes of dissent to the report. Therefore, it is quite clear that the amendments brought by the Standing Committee of the Parliament with respect to the Bill submitted to it is neither binding on the Parliament nor becomes a rider on the executive action of the Government taken under article 73 of the Constitution of India. Further, this Hon'ble Court in *Ram Jawaya Kapur, Rai Sahib Vs State of Punjab* [AIR 1955 SC 549], has held that under our Constitution, the functions of the Executive are not confined to the execution of laws made by the legislature and already in existence. Article 73 and 162, of the Constitution of India indicate that the powers of the Executive of the Union and of a State are co-extensive

with the legislative power of the Union and of a State, as the case may be. While the executive cannot act against the provisions of law, it does not follow that in order to enable the Executive to function relating to a particular subject, there must be a law already in existence, authorizing such action.

7.3 That contents and averments of para 3, 4 & 5 need no reply under this para and shall be urged at the time of hearing.

7.4 That contents and averments of para 6 is incorrect and hence disputed and denied. It is submitted that Unique Identification under (called Aadhaar Number) is being issued to residents only. Enrolment is being done through Registrars who are under the control of Central and State Governments, Public Sector Undertakings, Banks, Insurance Companies who in the normal course of their activities interact with the residents. The recommended verification procedures for the demographic data include documents, introducer system and NPR process of Public Scrutiny. The verification procedure which is to be carried out by the Registrars is meant to ensure that only genuine residents get enrolled in the system.

7.5 That the contents of para 7 of Writ Petition are a matter of fact however the same are disputed and denied to the extent it is contrary to record and shall be urged at the time of hearing.

7.6 That contents of para 8 of Writ Petition are twisted and hence disputed and denied to the extent it is contrary to the record. It is submitted that clause 2 (q) of the National Identification Authority of India Bill defines "resident" to mean an individual usually residing in

village or rural areas or town or ward or demarcated areas within a ward in a town or urban area. It is to be noted that the definition of resident has been taken from the definition of "Population Register" as given in Rule 2 (I) of the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 which have been framed under the Citizenship Act, 1955. A Copy of the said Rules is annexed herewith as ANNEXURE P/4. As per Rule 2 (I) "Population register" to mean the register containing details of persons usually residing in a village or rural area or town or ward or demarcated area within a ward or a town or a urban area. On perusal of the NIDAI Bill, it is amply clear that the Aadhaar number or authentication number thereof shall not by itself confer any right of or be proof of citizenship or domicile in respect of the Aadhaar number holder.

7.7 That the contents of para/s 9 & 10 of the Writ Petition are misconceived and hence disputed and denied. It is submitted that the UID project is being executed pursuant to a notification of the Government of India whereupon, the Unique Identification Authority of India (UIDAI) has been set up and duly constituted as an Authority of the Government of India by an executive order under Article 73 of the Constitution of India as an "attached Office" of the Planning Commission of India. Subsequently, it's Chairman and Officers have been appointed and has been given the responsibility to lay down plan and policies to implement UID Scheme, own and operate the UID database, be responsible for its updation and maintenance on an ongoing basis. Implementation of UID scheme, *inter alia*, entails

generating and assigning UID (Unique Identification Numbers called Aadhaar numbers) to residents. Demographic and Biometric attributes of the residents are collected during enrolment. The Central Identities Data Repository (CIDR) runs a de-duplication check, comparing the resident's biometric and demographic information to the records in the database to ensure that the resident is not already enrolled. Since de-duplication also compares biometric records, it would identify individuals enrolling with a different set of demographic details. Biometric details will also be used for online authentication which will create a very strong authentication system which can confirm an individual's identity.

It is essential to mention here that it is an established principle of law that the executive cannot act against the provisions of a law. However, in view of Article 73 and 162 of the Constitution of India, the respective Government is not debarred from exercising its executive power in the areas which are not regulated by specific legislation. The implementation of UID Scheme which inter alia, include generating and assigning UID numbers to residents, defining mechanisms and processes for interlinking UID with partner databases, framing policies and administrative procedures relating to updation mechanisms and maintenance of UID database are continuous process involving interaction with agencies, public as well as private and also individuals. In the absence of any legislative framework, if any agency or individual refuses to give information as is required by UIDAI, the purpose of collecting the data will get frustrated and no sanction can be imposed against the

person for such refusal. Further, with a view to achieve the objective of UIDAI, it is essential to have a legislative backing empowering the Authority and its officers to collect data for implementation of the scheme. Therefore, in the interest of the administration, till the time such legislation is framed, the Authority can continue to function under the executive order issued by the Government.

It is essential to mention here that the object and the purpose of the UID project is to promote inclusion and benefit marginalized sections of society who have not formal proof of identity vis-a-vis the State and hence experience difficulties in accessing various welfare schemes that are implemented by the Government of India and State Governments. The key role of UID number is that of an enabler - a number that helps Governments design better welfare programmes, enables residents to access resources and services more easily wherever they live, and allows agencies and programmes - such as the NREGA, PDS, SSA - to deliver benefits and services effectively and transparently. The number will thus be an identity infrastructure, and the foundation over which multiple services and applications can be built for the resident.

7.8 That the contents of para 11 of the Writ Petition are misconceived and therefore disputed. It is respectfully submitted that the petitioner tries to assail the instant subordinate legislation on the ground of malafide on the part of the Government. It is respectfully submitted that it is an established principle of law laid down by this Hon'ble Court in a catena of Judgment/s, that no legislation could be challenged on the ground of the malafide on part of Government. As

stated earlier, pending of a Bill for the consideration of the Parliament does not debar for the Government from exercising its power under Article 73 of the Constitution of India.

7.9 That the contents of para 12, 13 & 14, of the Writ Petition are matter of fact/s and shall be urged at the time of hearing and needs no reply at this stage.

7.10 That the contents of para 15 of the Writ Petition is wrong averment of fact/s and misconceived and therefore disputed and denied. It is wrong to suggest that the issue of Aadhaar number has been stopped. However, the correct position is that the, Phase I of the project which consisted of enrolling 20 crore residents is over now and before commencing Phase II, the learnings from Phase I were consolidated. It is also to be noted that the Government has approved 40 crore additional enrolments to be done by the UIDAI in Phase II of the project.

7.11 That the contents of para 16, of the Writ Petition is a repetition of the para 9 & 10, couched in a different language, and therefore, for the reply of the same at para 7.7 may be referred thereto, and the same is not being reproduced herewith for the sake of brevity.

7.12 That the contents of para 17 to 21, of the Writ Petition raises the question with regard to the scope and ambit of Article 73 of the Constitution of India, which has already been categorically settled by this Hon'ble Court in a series of the Judgments. It is submitted that the Apex Court in *Sangwan Col. A.S Vs Union of India* [AIR 1981 SC 1545] has held that that where the Constitution does not require an action to be taken only by legislation or there is no existing law to

157
fetter the executive power of the Union (or the State as the case may be), the Government would not only be free to take such action by an executive order or to lay down a policy for the making of such executive orders as occasion arises, but also to change such orders or the policy itself as often as the Government so requires subject to the condition that such change must be made in the exercise of a reasonable discretion and not arbitrarily, the making or changing of such order is made known to those concerned and it complies with Article 14, so that persons equally circumstanced are not treated unequally.

Further, the Kerala High Court, also in *Rev. Fr. Joseph Valamangalam and Others Vs State of Kerala* [AIR 1958 Kerala, 290] has held that the legislature is in the process of making a law governing the matters covered by the policy/orders, does not in any manner affect the executive power of the state in respect of those matters until the law is actually made.

As it is well known that legislation in House upon a particular subject is a complex process. Therefore, when a Bill comes up before a House for general discussion, it is open to that House to refer it to a Select Committee of the House or a Joint Committee of the two Houses. A motion has to be moved and adopted to this effect in the House in which the Bill comes up for consideration. The Select or Joint Committee considers the Bill, clause by clause just as the two Houses do. Amendments can be moved to various clauses by members of the Committee. The Committee can also take evidence of associations, public bodies or experts who are interested in the

Bill. After the Bill has thus been considered, the Committee submits its report to the House. Members who do not agree with the majority report may append their minutes of dissent to the report. Therefore, it is quite clear that the amendments brought by the Standing Committee of the Parliament with respect to the Bill submitted to it is neither binding on the Parliament nor becomes a rider on the executive action of the Government taken under article 73 of the Constitution of India. The action of the Government may be criticised and condemned in the House of Legislature or outside but this does not amount to an infraction of the Fundamental Right guaranteed under Part III of the Constitution of India. Therefore, since there is no Fundamental Right in the present case which can be said to have been infringed by the action of the Government, the Petition is bound to fail on that ground.

It is further respectfully submitted that the list of cases given under para 21, of the petition have been merely cited but no reasoning has been given cited as to how they are applicable to the present case or even if they are applicable how the principle enunciated under the said case law has been flouted by issuing the impugned notification under Article 73 of the Constitution of India and, therefore, the Respondent craves leave of this Hon'ble Court to deal with the same at the time of hearing.

7.13 That the contents of para 22 to 23, of the Writ Petition are misconceived and hence disputed and denied. Demographic and Biometric attributes of the residents are collected during enrolment. The Central Identities Data Repository (CIDR) runs a de-duplication

check, comparing the resident's biometric and demographic information to the records in the database to ensure that the resident is not already enrolled. Since de-duplication also compares biometric records, it would identify individuals enrolling with a different set of demographic details. Biometric details will also be used for online authentication which will create a very strong authentication system which can confirm an individual's identity. It is submitted that the Aadhaar Number issued to the residents on a voluntary basis does not in any manner amounts to an infringement of Fundamental Rights guaranteed to the subject/s under Part III of the Constitution of India. The consent of the individual is a sine qua non before issuing a Aadhaar number and therefore, it is a voluntary project with an objective to promote inclusion and benefit of the marginalized sections of society who have no formal proof of identity vis-à-vis the State and hence experience difficulties in accessing various welfare schemes that are implemented by the Government of India and State Governments. Therefore, it cannot be said that collection of Biometric information of the subject/s who volunteers to the same amount/s to breach of Fundamental Right.

7.14 That the contents of para 24, of the Writ Petition is misconceived and hence disputed and denied. It is respectfully submitted that the plea taken under this para has been taken in ignorance of the law laid down by this Hon'ble Court in a series of the judgment/s. In support of the submission the Respondent/s rely on the following decisions:-

- A) Ram Jawaya Kapur Vs State of Punjab [(1955) 2 SCR 225].
- B) Joesph Valamangalam and Others Vs State of Kerala [AIR 1958 Kerela, 290]
- C) Sangwan Col A.S Vs union of India [AIR 1981 Sc 1545]
- D) J.R Raghupathy vs State of A.P [(1988)4SCC364]

7.15 That the contents of para. 25, of the Writ Petition are wrong and misconceived and hence disputed and denied. It is respectfully submitted that pursuant to its mandate, the UIDAI has put in place the mechanism and process to issue Unique Identification Numbers (called Aadhaar numbers) to residents of India.

It is wrong to suggest that Aadhaar number is being issued without any proper verification by the private companies whose main object is to make money by issuing more cards and that cards are being issued even on the basis of an affidavit. In fact, it is stated that, the UIDAI has entered into Memoranda of Understanding with Registrars, who in turn appoints enrolling agencies to execute enrolments. Registrars of the UIDAI are Departments of the Central and State Government, banks, insurance companies and other institutions which interact with residents in their normal course of activities. Registrar General, India who is creating the National Population Register under the Citizenship Act, 1955 and is also one of the Registrars of UIDAI. Enrolment is being done under the control and supervision of Registrars, by hiring enrolment agencies (who are private agencies). The resident data captured by the enrolling agency is done on software developed by UIDAI. Data protection

have no formal proof of identity vis-a-vis the State and hence experience difficulties in accessing various welfare schemes that are implemented by the Government of India and State Governments. The key role of UID number is that of an enabler - a number that helps Governments design better welfare programmes, enables residents to access resources and services more easily wherever they live, and allows agencies and programmes - such as the NREGA, PDS, SSA - to deliver benefits and services effectively and transparently. The number will thus be an identity infrastructure, and the foundation over which multiple services and applications can be built for the resident. UIDAI has already conducted pilot projects where MGNREGA workers have directly received their wages at their door step through UID enabled accounts based on UID authentication. UID project will make it possible for migrant workers to keep their funds safe and transfer funds to their families without having to depend on informal mechanisms. UID will enable the homeless to have an identity for the first time and have access to access benefits. A pilot was also initiated in Aurangabad in September 2012 for disbursing pensions under 5 special assistance schemes which are operational in Maharashtra - Sanjay Gandhi Niradhar Anudan Yojna, Shravan Bal Old Age Pension, Indira Gandhi National Age Pension Scheme, Indira Gandhi National Widow Pension Scheme and Indira Gandhi National Disable Pension Scheme. The objective is to directly transfer monetary benefit into the bank account of pensioners using the Aadhaar Payments Bridge. Aadhaar number is linked to the list

of beneficiaries to eliminate fake beneficiaries. Aadhaar Enabled Payment System will be used by Banking Correspondents to disburse funds through micro-ATM's.

As regards the reliance on UK ID card project, which was the subject matter of the study of London School of Economics, it stated that there are significant differences between the UK ID card project and the UID project and to equate the two would not be appropriate. The differences are as follows:

- a. The UK system involved issuing a card which stored the information of the individual including their biometrics on the card. The Aadhaar project involves issuing a number. No card containing the biometric information is being issued.
- b. The statutory framework envisaged made it mandatory to have the UK ID card. Aadhaar number is not mandatory.
- c. The data fields were large and required the individual to provide accurate information of all other ID numbers such as driver's license, national insurance number and other such details thereby linking the UK ID card database to all other databases on which the individual was registered. The Aadhaar project collects limited information.
- d. The UK legislative framework and structure approached it from a security perspective. The context and need in India is different. The Aadhaar project is envisaged as a means to enhance the delivery of welfare benefits and services.

7.17 That the contents of para 27,28 &29 of the Writ Petition are connected which is misconceived and hence disputed and denied. It

is submitted that the comparison of Section 14 A of the Citizenship Act and Clause 3 of the National Identification Authority of India Bill (NIDAI Bill), 2010 is totally irrelevant. A copy of the extract of the Section 14-A of the Citizenship Act, 1955 is annexed herewith as ANNEXURE-P/6.

As per Clause 3 of the National Identification Authority of India Bill, the Authority is empowered to issue Aadhaar numbers to resident in respect of their demographic and biometric information. Clause 2 (q) of the Bill defines "resident" to mean an individual usually residing in village or rural areas or town or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area. It is to be noted that the definition of resident has been taken from the definition of "Population Register" as given in Rule 2(1) of the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 which have been framed under the Citizenship Act, 1955. Rule 2 (1) defines "Population Register" to mean the register containing details of persons usually residing in a village or rural area or town or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area.

It is also to be noted that the National Population Register, which is a register of usual residents in the country, is being created under the provisions of the Citizenship Act, 1955 and Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.

7.18 That the contents of para 30 of the Writ Petition are misconceived and hence disputed and denied. It is submitted that

Aadhaar number or authentication thereof shall not by itself confer any right of or be a proof of citizenship or domicile in respect of the Aadhaar number holder. It is also to be stated that the letter through which Aadhaar number is intimated to the resident also clearly states that the number is not a proof of citizenship.

7.19 That the contents of para 31,32 &33 of the Writ Petition are mischievous and misconceived and hence disputed and denied and shall be urged at the time of hearing.

7.20 In the aforementioned facts and circumstances of the case, more particularly, in view of the well established principles of law by this hon'ble Court in a catena of the judgments dealt with herein above, the prayer clause of the Writ Petition is disputed and denied. Therefore, it is respectfully prayed that the present Writ Petition be dismissed with costs.

7.21. That no new facts have been pleaded in this counter affidavit.

DEPONENT

VERIFICATION:

Verified by me on this day of March 2013 that contents of the aforesaid Counter Affidavit are true and correct to my knowledge so derived from the official records. No part of it is false and nothing material has been concealed there from.

DEPONENT

D.S. Mahra
Advocate for the Respondent

ANNEXURE P-1

(TO BE PUBLISHED IN PART-I, SECTION-2 OF THE
GAZETTE OF INDIA)

GOVERNMENT OF INDIA

PLANNING COMMISSION

Yojana Bhawan, Sansad Marg

New Delhi, 28th January, 2009

NOTIFICATION

No. A-43011/02/2009-Admn.I: In pursuance of
Empowered Group of Ministers' fourth meeting,
dated 4th November 2008, the Unique Identification
Authority of India (UIDAI) is hereby constituted and
notified as an attached office under aegis of
Planning Commission with following terms of
reference and initial core staff composition:-

COMPOSITION:

2. UIDAI shall be set up with an initial core team of
115 officials and staff as per details given below:

| Post | Level | No. of Posts |
|-------------------------------------|-------------------------------------|--------------|
| UID Authority of India | | |
| Director General & Mission Director | Additional Secretary Govt. of India | 1 |
| Deputy Director General (DDG) | Joint Secretary Govt. of India | 1 |
| Assistant Director General (ADG) | Director, Govt. of India | 1 |
| Support Staff | | |
| PS | PS | 3 |
| Peon | Peon | 2 |
| Driver | Driver | 2 |
| Total Manpower | | 10 |
| State /UT Units of UIDAI | | |
| State/ UT UID Commissioner | Joint Secretary Govt. of India | 35 |
| Support Staff | | |
| PS | PS | 35 |
| Peon | Peon | 35 |

| | |
|----------------|-----|
| Total Manpower | 105 |
| Grand Total | 115 |

Role and Responsibilities of UIDAI

3 UIDAI shall have the responsibility to lay down plan and policies to implement UID Scheme, shall own and operate UID database and be responsible for its updation and maintenance on an ongoing basis.

4 Implementation of UID scheme will entail, inter alia, following responsibilities being undertaken by UIDAI:

- Generate and assign UID to residents
- Define mechanisms and processes for interlinking UID with partner databases on a continuous basis

- Frame policies and administrative procedures related to updation mechanism and maintenance of UID database on an ongoing basis -

- Co-ordinate I liaise with implementation partners and user agencies as also define conflict resolution mechanism

- Define usage and applicability of UID for delivery of various services

- Operate and manage all stages of UID lifecycle

- Adopt phased approach for implementation of UID specially with reference to approved timelines

- Take necessary steps to ensure collation of NPR with UID (as per approved strategy)

- Ensure ways for leveraging field level institutions appropriately such as PRIs in establishing linkages across partner agencies as well as its validation while cross linking with other designated agencies
- Evolve strategy for awareness and communication of UID and its usage
- Identify new partner /user agencies
- Issue necessary instructions to agencies that undertake creation of databases, to ensure standardization of data elements that are collected and digitized and enable collation and correlation with UID and its partner databases
- Frame policies and administrative procedures related to hiring / retention / mobilization of resources, outsourcing of various tasks and

budgeting & planning for UIDAI and all State units under UIDAI.

5. Planning Commission shall be the nodal agency for UIDAI for providing logistics, planning and budgetary support. Planning commission would provide initial office and IT infrastructure at central level.

6. Government housing will be provided to offices of UIDAI appointed on deputation from general pool of Department of Urban Development.

Sd/-28/1/10

(Dr. Subas Panl)

Secretary to the Government of India

The General Manager
Govt. of India Press
Faridabad.

Copy

to:

1. Secretary to the President, Rashtrapati Bhavan, New Delhi
2. Secretary to the Vice-President, Maulana Azad Road, New Delhi
3. Cabinet Secretary, Rashtrapati Bhavan, New Delhi
4. Principal Secretary to the Prime Minister, South Block, New Delhi
5. Private Secretary to the Deputy Chairman, Planning Commission
6. All Ministers/Departments of Govt. of India
7. Chief Secretaries of all States/Union Territories
8. Secretary General, Rajya Sabha Secretariat, New Delhi
9. Secretary General, Lok Sabha Secretariat, New Delhi
10. Pr. Adviser (Admn & PC)IAS & FA/Adviser (C & I)/Director (GA)IDS (Admn.)
11. Pay & Accounts Officer, Planning Commission
12. Drawing & Disbursing Officer, Planning Commission
13. Accounts —I Section, Planning Commission.

//True copy//

ANNEXURE P-2

THE NATIONAL IDENTIFICATION AUTHORITY OF
INDIA BILL, 2010

ARRANGEMENT OF CLAUSES

CHAPTER I
PRELIMINARY

CLAUSES

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II
AADHAAR NUMBERS

3. Aadhaar number.
4. Properties of aadhaar number.
5. Authentication of aadhaar number.

6. Aadhaar number not evidence of citizenship or domicile, etc.
7. Central Identities Data Repository.
8. Updation of certain information.
9. Prohibition on requiring certain information.
10. Special measures for issuance of aadhaar number to certain categories of persons.

CHAPTER III

NATIONAL IDENTIFICATION AUTHORITY OF INDIA

11. Establishment of Authority.
12. Composition of Authority.
13. Qualifications for appointment of Chairperson and Members of Authority.
14. Term of office and other conditions of service of Chairperson and Members.
15. Removal of Chairperson and Members.
16. Restrictions on Chairperson or Members on employment after cessation of office.

17. Functions of Chairperson.
18. Meetings.
19. Vacancies, etc. not to invalidate proceedings of Authority.
20. Officers and other employees of Authority.
21. Functions of chief executive officer of Authority.
22. Transfer of assets, liabilities of Authority.
23. Powers and functions of Authority.

CHAPTER IV

GRANTS, ACCOUNTS AND AUDIT AND ANNUAL REPORT

24. Grants by Central Government.
25. Other fees and revenue.
26. Accounts and audit.
27. Returns and annual report, etc.

CHAPTER V

IDENTITY REVIEW COMMITTEE

CLAUSES

- 28. Review Committee.
- 29. Functions of Review Committee.

CHAPTER VI

PROTECTION OF INFORMATION

- 30. Security and confidentiality of information.
- 31. Alteration of demographic information or biometric information.
- 32. Access to own information and records of requests for authentication.
- 33. Disclosure of information in certain cases.

CHAPTER VII

OFFENCES AND PENALTIES

- 34. Penalty for impersonation at time of enrolment.

35. Penalty for impersonation of aadhaar number holder by changing demographic information or biometric information.

36. Penalty for impersonation.

37. Penalty for disclosing identity information.

38. Penalty for unauthorised access to the Central Identities Data Repository.

39. Penalty for tampering with data in Central Identities Data Repository.

40. Penalty for manipulating biometric information.

41. General penalty.

42. Offences by companies.

43. Act to apply for offence or contravention committed outside India.

44. Power to investigate offences.

45. Penalties not to interfere with other punishments.

46. Cognizance of offences.

MISCELLANEOUS

47. Power of Central Government to supersede Authority.
48. Members, officers, etc., to be public servants.
49. Power of Central Government to issue directions.
50. Delegation.
51. Protection of action taken in good faith.
52. Power of Central Government to make rules.
53. Power of Authority to make regulations.
54. Laying of rules and regulations before Parliament.
55. Application of other laws not barred.
56. Power to remove difficulties.
57. Savings.

THE NATIONAL IDENTIFICATION AUTHORITY OF

INDIA

BILL, 2010

A
BILL

to provide for the establishment of the National Identification Authority of India for the purpose of issuing identification numbers to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access to benefits and services to such individuals to which they are entitled and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Identification Authority of India Act, 2010.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir and save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person.

Short title, extent and commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and, different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. In this Act, unless the context otherwise requires,—

- (a) "aadhaar number" means the identification number issued to an individual under sub-section (2) of section 3;
- (b) "aadhaar number holder" means an individual who has been issued an aadhaar number under this Act;
- (c) "authentication" means the process wherein, aadhaar number along with other attributes (including biometrics) are submitted to the Central Identities Data Repository for its verification and such Repository verifies the correctness thereof on the basis of information or data or documents available with it;
- (d) "Authority" means the National Identification Authority of India established under sub-section (1) of section 11;

(e) "biometric information" means a set of such biological attributes of an individual as may be specified by regulations;

(f) "Central Identities Data Repository" means a centralised database in one or more locations containing all aadhaar numbers issued to aadhaar number holders along with the corresponding demographic information and biometric information of such individuals and other information related thereto;

(g) "Chairperson" means the Chairperson of the Authority appointed under section 12;

(h) "demographic information" includes information relating to the name, age, gender and address of an individual (other than race, religion, caste, tribe, ethnicity, language, income or health), and such other information as may be specified in the

regulations for the purpose of issuing an aadhaar number;

(i) "enrolling agency" means an agency appointed by the Authority or by the Registrars, as the case may be, for collecting information under this Act;

(j) "enrolment" means such process, as may be specified by regulations, to collect demographic information and biometric information from individuals by the enrolling agencies for the purpose of issuing of aadhaar number to such individuals under this Act;

(k) "identity information" in respect of an individual means biometric information, demographic information and aadhaar number of such individuals;

(l) "Member" includes the Chairperson and a part-time Member of the Authority appointed under section 12;

(m) "notification" means a notification published in the Official Gazette and the expression "notified" with its cognate meanings and grammatical variations shall be construed accordingly;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "Registrar" means any entity authorised or recognised by the Authority for the purpose of enrolling the individuals under this Act;

(p) "regulations" means the regulations made by the Authority under this Act;

(q) "resident" means an individual usually residing in a village or rural area or town or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area in India;

(r) "Review Committee" means the Identification Review Committee constituted under sub-section (1) of section 28.

CHAPTER II

AADHAAR NUMBERS

3. (1) Every resident shall be entitled to obtain an aadhaar number on providing of his demographic information and biometric information to the Authority in such manner as may be specified by regulations:

Provided that the Central Government may, from time to time, notify such other category of

individuals who may be entitled to obtain an aadhaar number.

(2) On receipt of the demographic information and biometric information under subsection

(1), the Authority shall, after verifying the information, in such manner as may be specified by regulations, issue an aadhaar number to such resident.

4. (1) An aadhaar number, issued to an individual shall not be re-assigned to any other individual.

(2) An aadhaar number shall be a random number and bear no attributes or identity data or part thereof, relating to the aadhaar number holder.

(3) An aadhaar number shall, subject to authentication, be accepted as proof of identity of the aadhaar number holder.

5. (1) The Authority shall perform authentication of the aadhaar number of a aadhaar number holder in relation to his biometric information and demographic information subject to such conditions

and on payment of such fees and in such manner as may be specified by regulations.

(2) The Authority shall respond to an authentication query with a positive or negative response or with any other appropriate response excluding any demographic information and biometric information.

6. The aadhaar number or the authentication thereof shall not, by itself, confer any right of or be proof of citizenship or domicile in respect of an aadhaar number holder.

7. The Authority may engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as may be specified by regulations.

8. The Authority may require the aadhaar number holders to update their demographic information and biometric information, from time to time, in such manner as may be specified by regulations so as to ensure continued accuracy of their information in the Central Identities Data Repository.

9. The Authority shall not require any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health.

10. The Authority shall take special measures to issue aadhaar number to women, children, senior citizens, persons with disability, migrant unskilled and unorganised workers, nomadic tribes or to such other persons who do not have any permanent dwelling house and such other categories of individuals as may be specified by regulations.

CHAPTER III

NATIONAL IDENTIFICATION AUTHORITY OF INDIA

11. (1) The Central Government shall, by notification, establish an Authority to be known as the National Identification Authority of India to exercise the powers conferred on it and to perform the functions assigned to it under this Act.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be in the National Capital Region referred to in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985.

(4) The Authority may, with the prior approval of the Central Government, establish its offices at other places in India.

12. The Authority shall consist of a Chairperson and two part-time Members to be appointed by the Central Government.

13. The Chairperson and Members of the Authority shall be persons of ability, integrity and outstanding calibre having experience and knowledge in the matters relating to technology, governance, law, development, economics, finance, management, public affairs or administration.

14. (1) The Chairperson and the Members appointed under this Act shall hold office for a term of three years from the date on which they assume office and shall be eligible for reappointment:

Provided that no person shall hold office as a Chairperson or Member after he has attained the age of sixty-five years:

Provided further that the Chairperson of the Unique Identification Authority of India appointed before the commencement of this Act by notification A-43011/02/2009-Admn.I (Vol.II) dated the 2nd July, 2009 shall continue as a Chairperson of the

Authority under this Act for the term for which he had been appointed.

(2) The Chairperson and every Member shall, before entering upon their office, make and subscribe to, an oath of office and of secrecy, in such form and in such manner and before such Authority as may be prescribed.

(3) Notwithstanding anything contained in subsection (1), the Chairperson or Member may—

(a) relinquish his office, by giving in writing to the Central Government, a notice of not less than thirty days; or

(b) be removed from his office in accordance with the provisions of section 15.

(4) The Chairperson shall not hold any other office during the period of holding his office in the Authority as such.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and allowances or remuneration

payable to part-time Members shall be such as may be prescribed:

Provided that the salary, allowances and the other terms and conditions of service of the Chairperson shall not be varied to his disadvantage after his appointment.

15. (1) The Central Government may remove from office the Chairperson, or a Member, who—

- (a) is, or at any time has been adjudged as an insolvent;
- (b) has become physically or mentally incapable of acting as the Chairperson or, as the case may be, a Member;
- (c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or, as the case may be, a Member; or

(e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest.

(2) The Chairperson, or a Member shall not be removed under clause (d) or clause (e) of subsection (1) unless he has been given a reasonable opportunity of being heard in the matter.

16. The Chairperson or a Member, ceasing to hold office as such, shall not, without previous approval of the Central Government,—

(a) accept any employment in, or connected with the management or administration of, any person which has been associated with any work under the Act, for a period of three years from the date on which they cease to hold office:

Provided that nothing contained in this clause shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any

corporation established by or under any Central State or provincial Act or a Government Company as defined in section 617 of the Companies Act 1956;

(b) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority;

(c) give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public;

(d) enter, for a period of three years from his last day in office, into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which

he had direct and significant official dealings during his term of office as such.

17. The Chairperson shall have powers of general superintendence, direction in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, and without prejudice to any of the provisions of this Act, exercise and discharge such other powers and functions of the Authority as may be prescribed.

18. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be specified by regulations.

(2) The Chairperson, or, if for any reason, he is unable to attend a meeting of the Authority, the senior most Member shall preside over the meetings of the Authority.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of

votes by the Members present and voting and the event of an equality of votes, the Chairperson or in his absence the Member presiding over shall have a second or casting vote.

(4) All decisions of the Authority shall be authenticated by the signature of the Chairperson or any other Member authorised by the Authority in this behalf.

(5) If any Member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

19. No act or proceeding of the Authority shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Authority;
- (b) any defect in the appointment of a person as Member of the Authority; or
- (c) any irregularity in the procedure of the Authority not affecting the merits of the case.

20. (1) There shall be a chief executive officer of the Authority, not below the rank of the Additional Secretary to the Government of India, who shall be the Member-Secretary of the Authority, to be appointed by the Central Government.

(2) The Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required to the Authority in the discharge of its functions.

(3) The salaries and allowances payable to, and the other terms and conditions of service of, the chief executive officer and other officers and other employees of the Authority shall be such as may be specified by regulations with the approval of the Central Government.

21. (1) The chief executive officer shall be the legal representative of the Authority and shall be responsible for—

- (a) the day-to-day administration of the Authority;
- (b) implementing the work programmes and decisions adopted by the Authority;
- (c) drawing up of proposal for the Authority's work programmes;
- (d) the preparation of the statement of revenue and expenditure and the execution of the budget of the Authority.

(2) Every year, the chief executive officer shall submit to the Authority for approval—

(a) a general report covering all the activities of the Authority in the previous year;

(b) programmes of work;

(c) the annual accounts for the previous year; and

(d) the budget for the coming year.

(3) The chief executive officer shall have administrative control over the officers and other employees of the Authority.

22. On and from the establishment of the Authority

(1) all the assets and liabilities of the Unique Identification Authority of India, established vide notification of the Government of India in the Planning Commission number A-43011/02/2009-Admin.I, dated the 28th January, 2009, shall stand transferred to, and vested in, the Authority.

Explanation.— The assets of such Unique Identification Authority of India shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in

particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of such Unique Identification Authority of India and books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(2) without prejudice to the provisions of sub-section (1), all data and information collected during enrolment, all details of authentications performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such Unique Identification Authority of India immediately before that day, for or in connection with the purpose of the said Unique Identification Authority of India, shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Authority;

(3) all sums of money due to the Unique Identification Authority of India immediately before that day shall be deemed to be due to the Authority; and

(4) all suits and other legal proceedings instituted or which could have been instituted by or against such Unique Identification Authority of India immediately before that day may be continued and may be instituted by or against the Authority.

23. (1) The Authority shall develop the policy, procedure and systems for issuing aadhaar numbers to residents and perform authentication thereof under this Act.

(2) Without prejudice to the provisions contained in sub-section (1), the powers and functions of the Authority may, inter alia, include all or any of the following matters, namely:—

- (a) specifying, by regulation, demographic information and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof;
- (b) collecting demographic information and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations;
- (c) appointing of one or more entities to operate the Central Identities Data Repository;
- (d) generating and assigning aadhaar numbers to individuals;
- (e) performing authentication of the aadhaar numbers;
- (f) maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations;
- (g) omitting and deactivating of an aadhaar number and information relating thereto in such manner as may be specified by regulations;

- (h) specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations;
- (i) specifying, by regulation, the terms and conditions for appointment of Registrars, enrolling agencies and service providers and revocation of appointments thereof;
- (j) establishing, operating and maintaining of the Central Identities Data Repository;
- (k) sharing, in such manner as may be specified by regulations, the information of aadhaar number holders, with their written consent, with such agencies engaged in delivery of public benefits and public services as the Authority may by order direct;
- (l) calling for information and records, conducting inspections, inquiries and audit of the operations for the purposes of this Act of the Central Identities Data Repository, Registrars, enrolling agencies and other agencies appointed under this

Act;

(m) specifying, by regulation, various processes relating to data management, security protocols and other technology safeguards under this Act;

(n) specifying, by regulation, the conditions and procedures for issuance of new aadhaar number to existing aadhaar number holder;

(o) levy and collect the fees or authorise the Registrars, enrolling agencies or other service providers to collect such fees for the services provided by them under this Act in such manner as may be specified by regulations;

(p) appoint such committees as may be necessary to assist the Authority in discharge of its functions for the purposes of this Act;

(q) promote research and development for advancement in biometrics and related areas including usage and applications of aadhaar numbers through appropriate mechanisms;

(r) specifying, by regulation, the policies and practices for Registrars, enrolling agencies and other service providers;

(s) setting up facilitation centres and grievance redressal mechanisms for redressal of grievances of residents, Registrars, enrolling agencies and other service providers;

(t) such other powers and functions as may be prescribed.

(3) The Authority may,—

(a) enter into a Memorandum of Understanding or agreement, as the case may be, with Central Government or State Governments or Union territories or other agencies for the purpose of performing any of the functions in relation to collecting, storing, securing or processing of information or performing authentication;

(b) by notification, appoint such number of Registrars, engage and authorize such agencies to collect, store, secure, process information or do authentication or perform such other functions in relation thereto, as may be necessary for the purposes of this Act.

(4) The Authority may engage such consultants, advisors and other persons as may be required for efficient discharge of its functions under this Act on such allowances or remuneration and terms and conditions as may be specified by regulations.

CHAPTER IV

GRANTS, ACCOUNTS AND AUDIT AND ANNUAL

REPORT

24. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority, grants of such sums

of money as the Central Government may think fit for being utilised for the purposes of this Act.

25. The fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India and the entire amount so credited be transferred to the Authority.

26. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the

audit of the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts, and in particular, shall have the right to demand production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

27. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central

Government may direct, such returns and statements and particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may from time to time require.

(2) The Authority shall prepare, once in every year, and in such form and manner and at such time as may be prescribed, an annual report giving—

- (a) a description of all the activities of the Authority for the previous years;
- (b) the annual accounts for the previous year; and
- (c) the programmes of work for coming year.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER V

IDENTITY REVIEW COMMITTEE

28. (1) The Central Government may, by notification, constitute the Identity Review Committee to discharge functions specified under sub-section (1) of section 29 in respect of any matter connected with the usage of the aadhaar numbers.

(2) The Review Committee shall consist of three members (one of whom shall be chairperson designated as such by the Central Government) who are persons of eminence, ability, integrity and standing in public life having knowledge and experience in the fields of technology, law, administration and governance, social service, journalism, management or social sciences.

(3) The members of the Review Committee shall be appointed by the Central Government on the recommendations of a committee consisting of—

(a) the Prime Minister, who shall be the Chairperson of the committee;

(b) the Leader of Opposition in the Lok Sabha; and

(c) a Union Cabinet Minister to be nominated by the Prime Minister.

Explanation.— For the removal of doubts, it is hereby declared that where the Leader of the Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in Opposition of the Government in the House of the People shall be deemed to be the Leader of the Opposition.

(4) The member of the Review Committee shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or a member of any political party.

(5) The members of the Review Committee shall hold office for a term of three years from the date on which they enter upon office and shall not be eligible for reappointment.

(6) The Central Government may by order remove from office any member of the Review Committee, who —

(a) is, or at any time has been adjudged as an insolvent;

(b) has become physically or mentally incapable of acting as a member;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest:

Provided that a Member shall not be removed under clause (d) or clause (e) unless he

has been given a reasonable opportunity of being heard in the matter.

29. (1) The Review Committee shall ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report

annually in relation to the extent and pattern of usage of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government.

(2) The manner of preparation of the report referred to in sub-section (1) shall be such as may be determined by the Review Committee.

(3) A copy of the report along with the recommendations of the Review Committee shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER VI

PROTECTION OF INFORMATION

30. (1) The Authority shall ensure the security and confidentiality of identity information and authentication records of individuals.

(2) The Authority shall take measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the Central Identities Data Repository) is secured and protected against any loss or unauthorised access or use or unauthorised disclosure thereof.

(3) Notwithstanding anything contained in any other law and save as otherwise provided in this Act, the Authority or any of its officer or other employee or any agency who maintains the Central Identities Data Repository shall not, whether during his service as such or thereafter, reveal any information stored in the Central Identities Data Repository to any person:

Provided that an aadhaar number holder may request the Authority to provide access to his identity information in such manner as may be specified by regulations.

31. (1) In case any demographic information relating to an aadhaar number holder is found incorrect or changes subsequently, the aadhaar number holder shall request the Authority to alter such demographic information in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

(2) In case any biometric information of aadhaar number holder is lost or changes subsequently for any reason, the aadhaar number holder shall request the Authority to make necessary alteration in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

(3) On receipt of any request under sub-section (1) or sub-section (2), the Authority may, if it is satisfied, make such alteration as may be required in the record relating to such aadhaar number holder and intimate such alteration to the concerned aadhaar number holder.

32. (1) The Authority shall maintain details of every request for authentication of the identity of every aadhaar number holder and the response provided thereon by it in such manner and for such time as may be specified by regulations.

(2) Every aadhaar number holder shall be entitled to obtain details of request for authentication of his aadhaar number and the response provided thereon by the Authority in such manner as may be specified by regulations.

33. Nothing contained in sub-section (3) of section 30 shall apply in respect of—

(a) any disclosure of information (including identity information or details of authentication) made pursuant to an order of a competent court; or

(b) any disclosure of information (including identity information) made in the interests of national security in pursuance of a direction to that effect issued by an officer or officers not below the rank of Joint Secretary or equivalent in the Central

Government specifically authorised in this behalf by an order of the Central Government.

CHAPTER VII

OFFENCES AND PENALTIES

34. Whoever impersonates or attempts to impersonate another person, whether dead or alive, real or imaginary, by providing any false demographic information or biometric information shall be punishable with imprisonment for a term which may extend to three years and with a fine which may extend to ten thousand rupees.

35. Whoever, with the intention of causing harm or mischief to a aadhaar number holder, or with the intention of appropriating the identity of a aadhaar number holder changes or attempts to change any demographic information or biometric information of a aadhaar number holder by impersonating or

attempting to impersonate another person, dead or alive, real or imaginary, shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

36. Whoever, not being authorised to collect identity information under the provisions of this Act, by words, conduct or demeanour pretends that he is authorised to do so, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

37. Whoever, intentionally discloses, transmits, copies or otherwise disseminates any identity information collected in the course of enrolment or authentication to any person not authorised under

this Act shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

38. Whoever, not being authorised by the Authority, intentionally,—

- (a) accesses or secures access to the Central Identities Data Repository; or
- (b) downloads, copies or extracts any data from the Central Identities Data Repository or stored in any removable storage medium; or
- (c) introduces or causes to be introduced any virus or other computer contaminant in the Central Identities Data Repository; or
- (d) damages or causes to be damaged the data in the Central Identities Data Repository; or
- (e) disrupts or causes disruption of the access to the Central Identities Data Repository; or

- (f) denies or causes a denial of access to any person who is authorised to access the Central Identities Data Repository; or
- (g) provides any assistance to any person to do any of the acts aforementioned; or
- (h) destroys, deletes or alters any information stored in any removable storage media or in the Central Identities Data Repository or diminishes its value or utility or effects it injuriously by any means; or
- (i) steals, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used by the Authority with an intention to cause damage, shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which shall not be less than one crore rupees.

Explanation.— For the purposes of this section, the expressions "computer contaminant", "computer virus" and "damage" shall have the meanings

respectively assigned to them in the Explanation to section 43 of the Information Technology Act, 2000.

39. Whoever, not being authorised by the Authority, uses or tampers with the data in the Central Identities Data Repository or in any removable storage medium with the intent of modifying information relating to aadhaar number holder or discovering any information thereof shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

40. Whoever gives or attempts to give any biometric information which does not pertain to him for the purpose of getting an aadhaar number or authentication or updating his information, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or with both.

41. Whoever, commits an offence under this Act for which no penalty is provided elsewhere than in this section, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to twenty-five thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

42. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge

41. Whoever, commits an offence under this Act for which no penalty is provided elsewhere than in this section, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to twenty-five thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

42. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge

or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in subsection (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director"; in relation to a firm, means a partner in the firm.

43. (1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person, irrespective of his nationality.

(2) For the purposes of sub-section (1), the provisions of this Act shall apply to any offence or contravention committed outside India by any person, if the act or conduct constituting the offence or contravention involves the Central Identities Data Repository.

44. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector of Police shall investigate any offence under this Act.

45. No penalty imposed under this Act shall prevent the imposition of any other penalty or punishment under any other law for the time being in force.

46. (1) No court shall take cognizance of any offence punishable under this Act, save on a

complaint made by the Authority or any officer or person authorised by it.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under this Act.

CHAPTER VIII MISCELLANEOUS

47. (1) If, at any time, the Central Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed

on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under subsection (1) superseding the Authority,—

(a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his

office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The Central Government shall cause a copy of the notification issued under subsection (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

48. The Chairperson, Members, officers and other employees of the Authority shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

49. Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give, in writing to it, from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this subsection.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

50. The Authority may, by general or special order in writing, delegate to any Member, officer of the Authority or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under section 53) as it may deem necessary.

51. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Authority or the Chairperson or any Member or any officer, or other employees of the Authority for anything which is in good faith done or intended to

be done under this Act or the rule or regulation made thereunder.

52. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which and the Authority before whom the oath of office and of secrecy is to be subscribed by the Chairperson and Members under subsection

(2) of section 14;

(b) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the allowances or remuneration payable to Members of the Authority under sub-section (5) of section 14;

- (c) the other powers and functions of the Chairperson of the Authority under section 17;
- (d) the other powers and functions of the Authority under clause (t) of subsection (2) of section 23;
- (e) the form of annual statement of accounts to be prepared by the Authority under sub-section (1) of section 26;
- (f) the form and the manner in which and the time within which returns and statements and particulars are to be furnished under sub-section (1) of section 27;
- (g) the form and the manner and the time at which the Authority shall furnish annual report under sub-section (2) of section 27;
- (h) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

53. (1) The Authority may, by notification, make regulations consistent with this Act and the rules

made thereunder, for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the biometric information under clause (e) and the demographic information under clause (h) of section 2;

(b) the process of collecting demographic information and biometric information from the individuals by enrolling agencies under clause (j) of section 2;

(c) the manner of furnishing the demographic information and biometric information by the resident under sub-section (1) of section 3;

(d) the manner of verifying the demographic information and biometric information for issue of aadhaar number under sub-section (2) of section 3;

(e) the conditions, fees and manner of authentication of the aadhaar number under sub-section (1) of section 5;

(f) the other functions to be performed by Central Identities Data Repository under section 7;

(g) the manner of updating biometric information and demographic information under section 8;

(h) the other categories of individuals under section 10 for whom the Authority shall take special measures for issue of aadhaar number;

(i) the time and places of meetings of the Authority and the procedure for transaction of business to be followed by it (including the quorum) under sub-section (1) of section 18;

(j) the salary and allowances payable to, and other terms and conditions of service of, the chief executive officer, officers and other employees of the Authority under sub-section (3) of section 20;

(k) the demographic information and biometric information and process for their collection and verification under clause (a) and the manner of their collection under clause (b) of sub-section (2) of section 23;

(l) the manner of maintaining and updating the information of individuals in the Central Identities Data Repository under clause (f) of sub-section (2) of section 23;

(m) the manner of omitting and deactivating an aadhaar number and information relating thereto under clause (g) of sub-section (2) of section 23;

(n) the usage and applicability of the aadhaar number for delivery of various benefits and services under clause (h) of sub-section (2) of section 23;

(o) the terms and conditions for appointment of Registrars, enrolling agencies and other service providers and the revocation of appointments thereof under clause (i) of sub-section (2) of section 23;

(p) the manner of sharing information of aadhaar number holder under clause (k) of sub-section (2) of section 23;

(q) various processes relating to data management, security protocol and other technology safeguards under clause (m) of sub-section (2) of section 23;

(r) the procedure for issuance of new aadhaar number to existing aadhaar number holder under clause (n) of sub-section (2) of section 23;

(s) manner of authorising Registrars, enrolling agencies or other services providers to collect such fees for services provided by them under clause (o) of subsection (2) of section 23;

(t) policies and practices to be followed by the Registrar, enrolling agencies and other service providers under clause (r) of sub-section (2) of section 23;

(u) the allowances or remuneration and terms and conditions of consultants, advisors and other persons under sub-section (4) of section 23;

(v) the manner in which an aadhaar number holder can access his identity information under sub-section (3) of section 30;

(w) the manner of alteration of demographic information under sub-section (1) and biometric information under sub-section (2) of section 31;

(x) the manner of and the time for maintaining the details of request for authentication and the response thereon under sub-section (1) of section 32;

(y) the manner of obtaining, by the aadhaar number holder, the records of request for authentication of his aadhaar number and response thereon under sub-section (2) of section 32;

(z) any other matter which is required to be, or may be, specified, or in respect of which provision is to be or may be made by regulations.

54. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is

in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

55. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

56. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions

of this Act as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

57. Anything done or any action taken by the Central Government under the Resolution of the Government of India, Planning Commission bearing notification number A-43011/02/ 2009-Admin.I, dated the 28th January, 2009, shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Central Government had decided to issue unique identification numbers to all residents in

India and to certain other persons. The scheme of unique identification involves collection of demographic information and biometric information from individuals for the purpose of issuing of unique identification numbers to such individuals. The biometric information would involve taking of a set of biological attributes of such individuals.

2. The Central Government, for the purposes of issue of the unique identification numbers, constituted, vide its notification dated the 28th January, 2009 being of executive in nature, the Unique Identification Authority of India, which is at present functioning under the Planning Commission.

3. It has been observed and assessed that the issue of unique identification numbers may involve certain issues, such as (a) security and confidentiality of information, imposition of obligation of disclosure of information so collected in certain cases, (b) impersonation by certain individuals at the time of enrolment for issue of

unique identification numbers, (c) unauthorised access to the Central Identities Data Repository, (d) manipulation of biometric information, (e) investigation of certain acts constituting offence, and (f) unauthorised disclosure of the information collected for the purposes of issue of the unique identification numbers which should be addressed by law and attract penalties.

4. In view of the foregoing paragraph, it has been felt necessary to make the said Authority as a statutory authority for carrying out the functions of issuing identification numbers to the residents in India in an effective manner. It is, therefore, proposed to enact the National Identification Authority of India Bill, 2010 to provide for the establishment of the National Identification Authority of India for the purpose of issuing identification numbers (which has been referred to as aadhaar number) to individuals residing in India and to certain other classes of individuals and

manner of authentication of such individuals to facilitate access to benefits and services to such individuals to which they are entitled and for matters connected therewith or incidental thereto.

5. The National Identification Authority of India Bill, 2010, inter alia, seeks to provide—

(a) for issue of aadhaar numbers to every resident by the Authority on providing his demographic information and biometric information to it in such manner as may be specified by regulations;

(b) for authentication of the aadhaar number of an aadhaar number holder in relation to his biometric information and demographic information subject to such conditions and on payment of such fees as may be specified by regulations;

(c) for establishment of the National Identification Authority of India consisting of a Chairperson and two part-time Members;

(d) that the Authority to exercise powers and discharge functions which, inter alia, include—

(i) specifying the demographic information and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof;

(ii) collecting demographic information and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations;

(iii) appointing of one or more entities to operate the Central Identities Data Repository;

(iv) maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations;

(v) specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations;

(e) that the Authority shall not require any individual to give information pertaining to his race,

religion, caste, tribe, ethnicity, language, income or health;

(f) that the Authority may engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as may be specified by regulations;

(g) for constitution of the Identity Review Committee consisting of three members (one of whom shall be the chairperson) to ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report annually in relation to the extent and pattern of usage of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government;

(h) that the Authority shall take measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the Central Identities Data Repository) is secured and

protected against any loss or unauthorised access or use or unauthorized disclosure thereof;

(i) for offences and penalties for contravention of the provisions of the proposed legislation.

6. The notes on clauses explain in detail the various provisions contained in the Bill.

7. The Bill seeks to achieve the above objectives.

NEW DELHI;

MANMOHAN SINGH

The 8th November, 2010.

Notes on clauses

Clause 2.— This clause contains definitions of certain words and expressions used in the proposed legislation. These definitions, inter alia, include the definitions of "aadhaar number", "authentication", "Central Identities Data Repository", "demographic information", "Identity information", "resident", "Review Committee", etc.

Clause 3.— This clause provides for entitlement to obtain an aadhaar number by every resident. It proposes that every resident shall be entitled to obtain an aadhaar number after providing his demographic information and biometric information to the Authority in such manner as specified by regulations. It further provides that the Central Government may from time to time notify the other category of individuals who may be entitled to obtain an aadhaar number. It also provides that the Authority after verifying the demographic information and biometric information provided by the resident, issue an aadhaar number to such resident.

Clause 4.— This clause deals with the properties of aadhaar number. It provides that any aadhaar number issued to an individual shall not be re-assigned to any other individual; it shall be a random number and bear no attributes or identity data relating to the aadhaar number holder. It

further provides that the aadhaar number can be accepted as proof of identity of its holder but subject to authentication.

Clause 5.—This clause empowers the Authority to perform authentication of the aadhaar number of a aadhaar number holder in relation to his biometric information and demographic information subject to such conditions and on payment of such fees and in such manner as specified by regulations. It further empowers the Authority to respond to an authentication query with a positive or negative response or with any other appropriate response excluding any demographic information and biometric information.

Clause 6.—This clause lays down that the aadhaar number or the authentication thereof shall not, by itself, confer any right of or be proof of citizenship or domicile in respect of an aadhaar number holder.

Clause 7.—This clause empowers the Authority to engage one or more entities to establish and

maintain the Central Identities Data Repository and to perform any other functions as provided under regulations.

Clause 8.— This clause deals with the updating of the demographic information and biometric information of the aadhaar number holders, from time to time, in such manner as specified by regulations so as to ensure continued accuracy of their information in the Central Identities Data Repository.

Clause 9.— This clause prohibits the Authority from requiring any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health.

Clause 10.— This clause empowers the Authority to take special measures to issue aadhaar number to women, children, senior citizens, persons with disability, migrant unskilled and unorganised workers, nomadic tribes or to such other persons who do not have any permanent dwelling house

and such other categories of individuals which are specified by regulations.

Clause 11.— This clause provides for establishment of the National Identification Authority of India, by the Central Government, to exercise the powers conferred on it and to perform the functions assigned to it under the proposed legislation. The said Authority shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of the proposed legislation, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued. It further provides for the location of the head office of the Authority in the National Capital Region and with the prior approval of the Central Government, to establish its offices at other places in India.

Clause 12.— This clause lays down the composition of the Authority consisting of a Chairperson and two

part-time Members to be appointed by the Central Government.

Clause 13.—This clause provides for qualifications for appointment of Chairperson and Members of the Authority. It provides that persons of ability, integrity and outstanding calibre having experience and knowledge in the matters relating to technology, governance, law, development, economics, finance, management, public affairs or administration shall be qualified as Chairperson and Members of the Authority.

Clause 14.— This clause provides for term of office and other conditions of service of Chairperson and Members. It provides that the Chairperson and the Members shall hold office for a term of three years from the date on which they assume office and shall be eligible for reappointment. It also provides that the Chairperson or Member of the Authority shall

not hold office as such after he has attained the age of sixty-five years.

It also provides that the Chairperson of the Unique Identification Authority of India appointed before the commencement of the proposed legislation by notification A-43011/02/2009-Admn.I (Vol.II) dated the 2nd July, 2009 shall continue as a Chairperson of the Authority under the proposed legislation for the term for which he had been appointed.

It also provides that the Chairperson and every Member shall, before entering upon their office, make and subscribe to, an oath of office and of secrecy, in such form and in such manner and before such Authority as may be prescribed.

It also provides that notwithstanding anything contained in sub-clause (1), the Chairperson or Member may relinquish his office, by giving in writing to the Central Government,

a notice of not less than thirty days; or be removed from his office in accordance with the provisions of

clause 15. It also provides that the Chairperson shall not hold any other office during the period of holding their office in the Authority as such.

It also provides that the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and allowances or remuneration payable to parttime Members shall be such as may be prescribed by the Central Government but neither the salary, allowances nor the other terms and conditions of service of the Chairperson shall be varied to his disadvantages after his appointment.

Clause 15.— This clause provides for removal of Chairperson and Members of the Authority. It provides that the Central Government may remove from office the Chairperson or a Member of the Authority on any of the grounds enumerated in this clause.

It further provides that the Chairperson or a Member shall not be removed from his office on the

grounds specified in item (d) or (e) of sub-clause (1) unless he has been given a reasonable opportunity of being heard in respect of those charges.

Clause 16.— This clause prohibition as to holding of offices by the Chairperson or a Member on ceasing to be such Chairperson or a Member of the Authority. It provides that on ceasing to hold office, the Chairperson or Member of the Authority, as the case may be, shall subject to the provisions of the proposed legislation, be ineligible, for further employment in, or, connected with the management or administration of, any person which has been associated with any work under the Act, for a period of three years. It also provides that the clause shall not apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a

Government Company, as defined in section 617 of the Companies Act, 1956.

It also provides prohibition to act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority; to give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public; to enter, for a period of three years from his last day in office, into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such.

Clause 17.— This clause lays down the functions of the Chairperson. It provides that the Chairperson shall have powers of general superintendence, direction in the conduct of the affairs of the Authority in addition to presiding over the meetings of the Authority and without prejudice to any of the provisions of the proposed legislation, to exercise and discharge such powers and functions of the Authority as may be prescribed.

Clause 18.— This clause empowers the Authority to determine the procedure for the transaction of business in its meetings including times and places of such meetings. It provides that the Chairperson, or, if for any reason, he is unable to attend a meeting of the Authority, the senior most Member shall preside over the meetings of the Authority.

It further provides that all questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Members

present and voting and in case of an equality of votes, the Chairperson or in his absence the Member presiding over shall have a second or casting vote and all such decisions of the Authority shall be authenticated by the signature of the Chairperson or any other Member authorised by the Authority in this behalf.

It also provides that any Member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

Clause 19.—This clause enumerates the circumstances under which the acts or proceedings of the Authority shall not be invalidated. It provides that no act or proceeding of the Authority shall be invalid merely by reason of, any vacancy in, or any defect in the constitution of, the Authority; any defect in the appointment of a person as a Member of the Authority; or any irregularity in the procedure of the Authority not affecting the merits of the case.

Clause 20.—This clause makes provision for appointment of officers and other employees of Authority. It provides for the appointment of a chief executive officer of the Authority by the Central Government, who shall act as the Member-Secretary of the Authority.

It also provides for determining the number, nature and categories of other officers and employees required to the Authority in the discharge of its functions.

It also provides for the determination of the salaries and allowances and the other terms and conditions of service of, the chief executive officer and other officers and other employees of the Authority lay regulation with the approval of the Central Government.

Clause 21.—This clause lays down functions of the chief executive officer. The functions of the chief executive officer, who shall be the legal representative of the Authority, inter alia, shall be the day-to-day administration and implementing the work programmes and decisions adopted by the Authority; drawing up of proposal for the Authority's work programmes; the preparation of the statement of revenue and expenditure and the execution of the budget of the Authority; submitting, every year a general report covering all the activities of the Authority in the previous year and programmes of work; and the annual accounts

for the previous year and the budget for the coming year.

It further lays down that the chief executive officer shall have administrative control over the officers and other employees of the Authority.

Clause 22.—This clause makes provision for transfer of assets, liabilities of the Authority. It provides that on and from the establishment of the Authority, all the assets and liabilities of the Unique Identification Authority of India, established vide notification of the Government of India in the Planning Commission number A-43011/02/2009-Admin.I, dated the 28th January, 2009, shall stand transferred to and vested in the Authority to be established under the proposed legislation.

It further provides that all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all

matters and things engaged to be done by, with or for such Unique Identification Authority of India for or in connection with the purpose of the said Unique Identification Authority of India, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority and all sums of money due shall be deemed to be due to the Authority and all suits and other legal proceedings instituted or which could have been instituted by or against such Unique Identification Authority of India may be continued or may be instituted by or against the Authority.

Clause 23.— This clause lays down the powers and functions of Authority. It provides that the Authority shall develop the policy, procedure and systems for issuing aadhaar numbers to residents and perform authentication thereof under this Act. If further specifies the powers and functions of the Authority which, inter alia, include; specifying, by regulation,

demographic information and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof; collecting demographic information and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations; appointing of one or more entities to operate the Central Identities Data Repository; generating and assigning aadhaar numbers to individuals; performing authentication of the aadhaar numbers; maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations; specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations; specifying, by regulation, the terms and conditions for appointment of Registrars, enrolling agencies and service providers and revocation of appointments thereof; establishing,

operating and maintaining of the Central Identities Data Repository; calling for information and records, conducting inspections, inquiries and audit of the operations for the purposes of the proposed legislation of the Central Identities Data Repository, Registrars, enrolling agencies and other agencies appointed under this Act; specifying, by regulation, the conditions and procedures for issuance of new aadhaar number to existing aadhaar number holder; levy and collect the fees or authorise the Registrars, enrolling agencies or other service providers to collect such fees for the services provided by them under the proposed legislation in such manner as may be specified by regulations.

It also empowers the Authority to enter into a Memorandum of Understanding or agreement, as the case may be, with the Central Government or State Governments or Union territories or other agencies for the purpose of performing any of the functions in relation to collecting, storing, securing

or processing of information or performing authentication; and appoint by notification, such number of Registrars, engage and authorise such agencies to collect, store, secure, process information or do authentication or perform such other functions in relation thereto, as may be necessary for the purposes of the proposed legislation or to engage such consultants, advisors and other persons as may be required for efficient discharge of its functions under this Act on such allowances or remuneration and terms and conditions as may be specified by regulations.

Clause 24.—This clause makes provision for grants by the Central Government. It provides that after due appropriation made by Parliament by law the Central Government may make grants of such sums of money as it may think fit to the Authority for being utilized for the purposes of the proposed legislation.

Clause 25.—This clause provides for other fees and revenue. It provides that fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India and entire amount so credited shall be transferred to the Authority.

Clause 26.—This clause makes provision for accounts and audit. It provides that the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

It further provides that the accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

It also provides that the accounts of the Authority, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Clause 27.—This clause provides for returns and annual report, etc. It provides that the Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may from time to time require.

It further provides that the Authority shall prepare, once in every year, and in such form and manner

and at such time as may be prescribed, an annual report giving a description of all the activities of the Authority for the previous years; the annual accounts for the previous year; and the programmes of work for coming year. A copy of such report shall be laid by the Central Government before each House of Parliament.

Clause 28.— This clause provides for the Review Committee. It provides that the Central Government may, by notification, constitute the Identity Review Committee, consisting of three members (one of whom shall be the chairperson as such designated by the Central Government) who are persons of eminence, ability, integrity and standing in public life having knowledge and experience in the fields of technology, law, administration and governance, social service, journalism, management or social sciences, to discharge functions specified under sub-clause (1)

of clause 29 in respect of any matter connected with the usage of the aadhaar numbers.

It further provides that the members of the Review Committee shall be appointed by the Central Government on the recommendations of a committee consisting of the Prime Minister, who shall be the chairperson of the committee; the Leader of Opposition in the Lok Sabha; and a Union Cabinet Minister to be nominated by the Prime Minister.

It also provides that the member of the Review Committee shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or a member of any political party. A member of the Review Committee shall hold office for a term of three years from the date on which they enter upon office and shall not be eligible for reappointment and may be removed by the Central Government on the grounds specified under sub-clause (6).

Clause 29.—This clause makes provision for functions of the Review Committee. It provides that the Review Committee shall ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report annually in relation to the extent and pattern of usage of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government. This clause further empowers the Review Committee to determine the manner of preparation of the report. It also provides that a copy of the report along with the recommendations of the Review Committee shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

Clause 30.—This clause provides for security and confidentiality of information. It provides that the Authority shall ensure the security and confidentiality of identity information and authentication records of individuals and take

measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the Central Identities Data Repository) is secured and protected against any loss or unauthorised access or use or unauthorised disclosure thereto.

It further provides that notwithstanding anything contained in any other law for the time being in force and save as otherwise provided in the proposed legislation, the Authority or any of its officer or other employee or any agency who maintains the Central Identities Data Repository shall not reveal any information stored in the Central Identities Data Repository to any person but an aadhaar number holder may request the Authority to provide access to his identity information in such manner as may be specified by regulations.

Clause 31.--This clause makes provision relating to alteration of demographic information or biometric information. It provides that in case any demographic information relating to an aadhaar number holder is found incorrect or it changes subsequently, and in case any biometric information of aadhaar number holder is lost or changes subsequently for any reason, then the aadhaar number holder shall request the Authority to alter such demographic information or biometric information in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

It further provides that on receipt of any request for alteration of demographic information or biometric information, the Authority may, if it is satisfied, make such alteration as may be required in the record relating to such aadhaar number holder and intimate such alteration to the concerned aadhaar number holder.

Clause 32.—This clause makes provision for access to own information and records of requests for authentication. It provides that the Authority shall maintain details of every request for authentication of the identity of every aadhaar number holder and the response provided thereon by it in such manner and for such time as may be specified by regulations.

It further provides that every aadhaar number holder shall be entitled to obtain details of request for authentication of his aadhaar number and the response provided thereon by the Authority in such manner as may be specified by regulations.

Clause 33.—This clause provides for disclosure of information in certain cases. It provides that provisions of sub-clause (3) of clause 30 which impose restrictions on providing information shall not apply in respect of any disclosure of information (including identity information or details of authentication) made pursuant to an order of a

competent court; or any disclosure of information (including identity information) made in the interests of national security in pursuance of a direction to that effect issued by an officer or officers not below the rank of Joint Secretary or equivalent in the Central Government specifically authorised in this behalf by an order of the Central Government.

Clause 34.—This clause provides for penalty for impersonation at time of enrolment. It provides that whoever impersonates or attempts to impersonate another person, whether dead or alive, real or imaginary, by providing any false demographic information or biometric information shall be punishable with imprisonment for a term which may extend to three years and with a fine which may extend to ten thousand rupees.

Clause 35.—This clause provides for penalty for impersonation of Aadhaar number holder by changing demographic information or biometric

information. It provides that whoever, with the intention of causing harm or mischief to a aadhaar number holder, or with the intention of appropriating the identity of a aadhaar number holder changes or attempts to change any demographic information or biometric information of a aadhaar number holder by impersonating or attempting to impersonate another person, dead or alive, real or imaginary, shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

Clause 36.—This clause provides for penalty for impersonation. It provides that whoever, not being authorised to collect identity information under the provisions of this Act, by words, conduct or demeanour pretends that he is authorised to do so, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the

case of a company, with a fine which may extend to one lakh rupees or with both.

Clause 37.—This clause provides for penalty for disclosing identity information. It provides that whoever, intentionally discloses, transmits, copies or otherwise disseminates any identity information collected in the course of enrolment or authentication to any person not authorised under this Act shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Clause 38.— This clause provides for penalty for unauthorised access to the Central Identities Data Repository. It provides that whoever, not being authorised by the Authority, intentionally, (a) accesses or secures access to the Central Identities Data Repository or (b) downloads, copies or

extracts any data from the Central Identities Data Repository; or stored in any removable medium; or

(c) introduces or causes to be introduced any virus or other computer contaminant; in the Central Identities Data Repository; or (d) damages or causes to be damaged the data in the Central Identities Data Repository;

(e) disrupts or causes disruption of the access to the Central Identities Data Repository; or

(f) denies or causes a denial of access to any person who is authorised to access the Central Identities Data Repository; or (g) provides any assistance to any person to do any of the acts aforementioned; (h) destroys, deletes or alters any information stored in any removable storage media or in the Central Identities Data Repository or diminishes its value or utility or effects it injuriously by any means; (i) steals, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used by

the Authority with an intention to cause damage, shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which shall not be less than one crore rupees.

It further defines the expressions "computer contaminant", "computer virus" and "damage" to have the same meanings for the purposes of this clause as are respectively assigned to them in the Explanation to section 43 of the Information Technology Act, 2000.

Clause 39.—This clause provides for penalty for tampering with data in Central Identities Data Repository. It provides that whoever, not being authorised by the Authority, uses or tampers with the data in the Central Identities Data Repository or in any removable storage medium with the intent of modifying information relating to aadhaar number holder or discovering any information thereof shall be punishable with imprisonment for a term which

may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

Clause 40.— This clause provides for penalty for manipulating biometric information.

It provides that whoever gives or attempts to give any biometric information which does not pertain to him for the purpose of getting an aadhaar number or authentication or updating his information, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or with both.

Clause 41.— This clause provides for general penalty. It provides that whoever, commits an offence under the proposed legislation for which no penalty is provided elsewhere than in this clause, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to twenty-five thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Clause 42.— This clause deals with the offences by companies. It provides that where an offence under the proposed legislation has been committed by a company then every person who at the time when the alleged offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

It further provides that if any such person proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence, then he shall not be liable for the said punishment.

It also provides that where any offence under the proposed legislation has been

committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Clause 43.— This clause makes provision for application of the proposed legislation in relation to offence or contravention committed outside India. It provides that the provisions of the proposed legislation shall apply also to any offence or contravention committed outside India by any person, irrespective of his nationality, if the act or conduct constituting the offence or contravention involves the Central Identities Data Repository.

Clause 44.— This clause provides for power to investigate offences. It provides that

notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector of Police shall investigate any offence under the proposed legislation.

Clause 45.-- This clause relates to penalties not to interfere with other punishments. It provides that no penalty imposed under the proposed legislation shall prevent the imposition of any other penalty or punishment under any other law for the time being in force.

Clause 46.-- This clause provides for cognizance of offences. It provides that any court shall not take cognizance of any offence punishable under the proposed legislation, save on a complaint made by the Authority or any officer or person authorised by it.

It further provides that any court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall not try any offence punishable under the proposed legislation.

Clause 47.— This clause empowers the Central Government to supersede Authority. It provides that the Central Government may after satisfying on the grounds mentioned under this clause supersede the Authority by issuing a notification for such period not exceeding six months and appoint a person or persons as the President may direct to exercise powers and discharge functions under the proposed legislation.

It further provides that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

It also provides that upon the publication of a notification superseding the Authority,

(a) the Chairperson and other members shall, as from the date of supersession, vacate their

offices as such; (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted be exercised and discharged by the person or persons referred to in sub-clause (1); and (c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

It also provides that the Central Government shall reconstitute the Authority, before the expiration of the period of supersession, by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office due to supersession of the Authority shall not be deemed to be disqualified for reappointment.

It also provides that the Central Government shall cause a copy of the notification and a full report of any action taken under this clause and the

circumstances leading to such action to be laid before each House of Parliament at the earliest.

Clause 48.— This clause provides that Members, officers, etc., to be public servants.

It provides that the Chairperson, Members, officers and other employees of the Authority shall be deemed, while acting or purporting to act in pursuance of any of the provisions of the proposed legislation, to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 49.—This clause empowers the Central Government to issue directions. It provides that without prejudice to the foregoing provisions of the proposed legislation, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give, in writing to it, from time to time.

It further provides that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this clause. It also provides that the decision of the Central Government, whether a question is one of policy or not, shall be final.

Clause 50.— This clause provides for delegation. It provides that the Authority may, by general or special order in writing, delegate to any Member, officer of the Authority or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under clause 53 relating to making of regulations) as it may deem necessary.

Clause 51.— This clause provides for protection of action taken in good faith. It provides that any suit, prosecution or other legal proceeding shall not lie against the Central Government or the Authority or the Chairperson or any Member or any officer, or

other employees of the Authority for anything which is in good faith done or intended to be done under the proposed legislation or the rules or regulations made thereunder.

Clause 52.— This clause empowers the Central Government to make rules. It provides that the Central Government may, by notification, make rules to carry out the provisions of the proposed legislation. It further specifies the matters in respect of which such rules may be made.

Clause 53.— This clause empowers the Authority to make regulations. It provides that the Authority may, by notification, make regulations for carrying out the provisions of the proposed legislation consistent with the proposed legislation and the rules made thereunder.

It further specifies the matters in respect of which such regulations may be made.

Clause 54.— This clause provides for laying of rules and regulations before Parliament.

It provides that every rule and every regulation made under the proposed legislation shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 55.— This clause provides that the provisions of the proposed legislation shall be in addition to, and not in derogation of, any other law for the time being in force.

Clause 56.— This clause makes provision for removal of difficulties. It provides that if any difficulty arises in giving effect to the provisions of the proposed legislation then the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the proposed legislation as may appear to be necessary for removing the difficulty.

It further provides that any such order for removal of difficulty shall be made under this section within a period of two years from the commencement of the proposed legislation.

It also provides that every order made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 57.— This clause provides for savings. It provides that anything done or any action taken by the Central Government under the Resolution of the Government of India, Planning Commission bearing notification number A-43011/02/2009-Admin.I, dated the 28th January, 2009, shall be deemed to have been done or taken under the corresponding provisions of the proposed legislation.

FINANCIAL MEMORANDUM

Clause 11 provides for establishment of the National Identification Authority of India which shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and sue or be sued with the head office in the National Capital Region and may

establish its offices at other places in India. Clause 12 provides that Authority shall consist of a Chairperson and two part-time Members. Subclause (5) of clause 14 makes provision for salaries and allowances payable to the Chairperson and allowances or remuneration payable to part-time Members. Sub-clause (3) of clause 20 makes provision for salaries and allowances payable to the chief executive officer and other officers and other employees of the Authority.

2. Item (j) of sub-clause (2) of clause 23 provides for establishment, operation and maintenance of the Central Identity Data Repository.

3. Clause 24 provides that the Central Government may after due appropriation made by Parliament by law in this behalf, make to the Authority, grants of such sums of money as the Central Government may think fit for being utilised for the purposes of the proposed legislation.

4. Clause 25 of the Bill provides that the fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India and the entire amount so credited will be transferred to the Authority.

5. It is estimated that there would be an expenditure of approximately Rs. 3023.01 crore in phase two of the scheme. Out of this, an amount of Rs. 477.11 crore would be towards recurring establishment expenditure and Rs. 2,545.90 crore would be towards non-recurring project related expenditure. The estimated cost for the first phase of the scheme was Rs. 147.31 crore towards the setting up necessary infrastructure for offices at headquarters and regional headquarters, creating testing facilities for running the pilots and proof of concept studies, initial work of creating standards in various areas of operations, and setting up of a project management unit and hiring of consultants.

6. The Bill does not envisage any other expenditure of recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 52 of the Bill empowers the Central Government to make, by notification, rules to carry out the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters, inter alia, include: (a) the form and manner in which and the authority before whom the oath of office and of secrecy is to be subscribed by the Chairperson and Members under sub-clause (2) of clause 14; (b) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the allowances or remuneration payable to Members of the Authority under sub-clause (5) of clause 14; (c) the other powers and

functions of the Chairperson of the Authority under clause 17; (d) the other powers and functions of the Authority under item(t) of sub-clause (2) of clause 23; (e) the form of annual statement of accounts to be prepared by Authority under sub-clause (1) of clause 26; (f) the form and the manner in which and the time within which returns and statements and particulars are to be furnished under sub-clause (1) of clause 27; (g) the form and the manner and the time at which the Authority shall furnish annual report under sub-clause (2) of clause 27; (h) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

2. Sub-clause (1) of clause 53 of the Bill empowers the National Identification Authority of India to make, by notification, regulations to carry out the provisions of the proposed legislation consistent with the provisions of the proposed legislation and

the rules made thereunder. Sub-clause (2) specifies the matters in respect of which such regulations may be made. These matters, inter alia, include: (i) the biometric information under sub-clause (e); the demographic information under sub-clause (h); the process of collecting demographic information and biometric information from the individuals by enrolling agencies under subclause (j) of clause 2; (ii) the manner of furnishing the demographic information and biometric information by the resident under sub-clause (1) of clause 3; and the manner of verifying the demographic information and biometric information for issue of aadhaar number under subclause (2) of clause 3; (iii) the procedure for authentication of the aadhaar number under subclause (1) of clause 5; (iv) the other functions to be performed by Central Identities Data Repository under clause 7; (v) the manner of updating biometric information and demographic information under clause 8; (vi) the other

categories of individuals under clause 10 for whom the Authority shall take special measures for allotment of aadhaar number; (vii) the time and places of meetings of the Authority and the procedure for transaction of business to be followed by it (including the quorum) under sub-clause (1) of clause 18; (viii) the salary and allowances payable to, and other terms and conditions of service of, the chief executive officer, officers and other employees of the Authority under sub-clause (3) of clause 20; (ix) various matters specified under clause 23; (x) the manner of accessing the identity information by the aadhaar number holder under sub-clause (3) of clause 30; (xi) the manner of alteration of demographic information under sub-clause (1) and biometric information under sub-clause (2) of clause 31; (xii) the manner of and the time for maintaining the request for authentication and the response thereon under sub-section (1) and the manner of obtaining, by the aadhaar

number holder, the records of request for authentication and response thereon under sub-clause (2) of clause 32 (xiii) any other matter which is required to be, or may be, specified, or in respect of which provision is to be or may be made by regulations.

3. Clause 54 provides that every rule and every regulation made under the proposed legislation shall be laid, as soon as may be after it is made, before each House of Parliament.

4. The matters in respect of which rules and regulations may be made are matter of procedure or administrative detail and it is not practicable to provide for them in the Bill itself.

The delegation of legislative power is therefore of a normal character.

RAJYA SABHA

BILL

to provide for the establishment of the National Identification Authority of India for the purpose of issuing identification numbers to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access to benefits and services to such individuals to which they are entitled and for matter connected therewith or incidental thereto.

—————
(Shri V. Narayanasamy, Minister of State in the Ministry of Planning and Parliamentary Affairs)

GMGIPMRND--5148RS--11.11.2010

//True copy//

ANNEXURE P-3

STANDING COMMITTEE ON FINANCE

(2011-12)

FIFTEENTH LOK SABHA

Ministry of Planning

THE NATIONAL IDENTIFICATION AUTHORITY OF
INDIA BILL, 2010

FORTY-SECOND REPORT

LOK SABHA SECRETARIAT

NEW DELHI

December, 2011/ Agrahyana, 1933 (Saka)

FORTY-SECOND REPORT

STANDING COMMITTEE ON FINANCE

(2011-2012)

(FIFTEENTH LOK SABHA)

Ministry of Planning

THE NATIONAL IDENTIFICATION AUTHORITY OF
INDIA BILL, 2010

Presented to Lok Sabha on 13 December, 2011

Laid in Rajya Sabha on 13 December, 2011

LOK SABHA SECRETARIAT NEW DELHI

December, 2011/ Agrahyana, 1933 (Saka)

INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Forty-Second Report on —The National Identification Authority of India Bill, 2010”.

2. The National Identification Authority of India Bill, 2010 introduced in Rajya Sabha on 3 December, 2010 was referred to the Committee on 10 December, 2010 for examination and report thereon, by the Speaker, Lok Sabha under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained background note, detailed note and written information on various provisions contained in the aforesaid Bill from the Ministry of Planning.

4. Written suggestions / views / memoranda on the provisions of the Bill were received from various institutions / experts / individuals.

5. The Committee took briefing / oral evidence of the representatives of the Ministry of Planning and the Unique Identification Authority of India (UIDAI) at their sitting held on 11 February, 2011.

6. At the sitting held on 29 June, 2011, the Committee heard the views of the representatives of (i) the National Human Rights Commission (NHRC), and (ii) the Indian Banks Association (IBA), and Dr. Reetika Khera, Visitor, Delhi School of Economics, New Delhi. The Committee also heard the views of the representatives of the Confederation of Indian Industry (CII), and experts

namely, Dr. Usha Ramanathan, Independent Law Researcher, New Delhi, Dr. R. Ramakumar, Associate Professor, the Tata Institute of Social Sciences, Mumbai and Shri Gopal Krishna, Member, Citizen Forum for Liberties, New Delhi at the sitting held on 29 July, 2011.

7. The Committee, at their sitting held on 8 December, 2011 considered and adopted this Report.

8. The Committee wish to express their thanks to the officials of the Ministry of Planning and the Unique Identification Authority of India (UIDAI) for furnishing the requisite material and information which were desired in connection with the examination of the Bill. The Committee would also thank all the institutions and experts for their valuable suggestions on the Bill.

9. For facility of reference, the observations/recommendations of the Committee have been printed in thick type in the body of the Report.

New Delhi;

YASHWANT SINHA,

9 December, 2011.

Chairman,

20 Aghrayana, 1933(Saka) Standing Committee on Finance

REPORT

PART - I

A Introduction

1. With a view to ensure that the benefits of centrally sponsored schemes reaches to right person and not misused, the Central Government had decided to issue unique identification numbers to all residents in India and to certain other persons. The scheme of unique identification

involves collection of demographic and biometric information from individuals for the purpose of issuing of unique identification numbers to such individuals. The Central Government, for the purpose of issuing unique identification numbers, constituted the Unique Identification Authority of India (UIDAI) on 28th January, 2009, being executive in nature, which is at present functioning under the Planning Commission.

2. It has been observed and assessed by the Government that the issue of unique identification numbers may involve certain issues, such as (a) security and confidentiality of information, imposition of obligation of disclosure of information so collected in certain cases, (b) impersonation by certain individuals at the time of enrolment for issue of unique identification numbers, (c) unauthorised access to the Central Identities Data Repository (CIDR), (d) manipulation of biometric

involves collection of demographic and biometric information from individuals for the purpose of issuing of unique identification numbers to such individuals. The Central Government, for the purpose of issuing unique identification numbers, constituted the Unique Identification Authority of India (UIDAI) on 28th January, 2009, being executive in nature, which is at present functioning under the Planning Commission.

2. It has been observed and assessed by the Government that the issue of unique identification numbers may involve certain issues, such as (a) security and confidentiality of information, imposition of obligation of disclosure of information so collected in certain cases, (b) impersonation by certain individuals at the time of enrolment for issue of unique identification numbers, (c) unauthorised access to the Central Identities Data Repository (CIDR), (d) manipulation of biometric

information, (e) investigation of certain acts constituting offence, and (f) unauthorised disclosure of the information collected for the purpose of issue of unique identification numbers, which should be addressed by law and attract penalties.

3. In view of the foregoing paragraph, the Government has felt it necessary to make the said Authority as a statutory authority for carrying out the functions of issuing unique identification numbers to the residents in India and to certain other persons in an effective manner. It is, therefore, proposed to enact the National Identification Authority of India Bill, 2010 to provide for the establishment of the National Identification Authority of India (NIDAI) for the purpose of issuing identification numbers (which has been referred to as aadhaar number) to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to

facilitate access to benefits and services to which they are entitled and for matters connected therewith or incidental thereto.

B. Objectives and Salient Features of the Bill

4. The National Identification Authority of India Bill, 2010, introduced in Rajya Sabha on 3rd December, 2010, inter alia, seeks to provide—

(a) for issue of aadhaar numbers to every resident by the Authority on providing his demographic and biometric information to it in such manner as may be specified by regulations;

(b) for authentication of the aadhaar number of an aadhaar number holder in relation to his demographic and biometric information subject to such conditions and on payment of such fees as may be specified by regulations;

(c) for establishment of the National Identification Authority of India consisting of a Chairperson and two part-time Members;

(d) that the Authority to exercise powers and discharge functions which, inter alia, include—

(i) specifying the demographic and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof;

(ii) collecting demographic and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations;

(iii) maintaining and updating the information of individuals in the CIDR in such manner as may be specified by regulations;

(iv) specify the usage and applicability of the aadhaar number for delivery of various benefits and

services as may be provided by regulations; (e) that the Authority shall not require any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health; (f) that the Authority may engage one or more entities to establish and maintain the CIDR and to perform any other functions as may be specified by regulations;

(g) for constitution of the Identity Review Committee consisting of three members (one of whom shall be the chairperson) to ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report annually in relation to the extent and pattern of usage of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government;

(h) that the Authority shall take measures (including security safeguards) to ensure that the

information in the possession or control of the Authority (including information stored in the CIDR) is secured and protected against any loss or unauthorized access or use or unauthorized disclosure thereof; and

(i) for offences and penalties for contravention of the provisions of the proposed legislation.

C. Evolution of the UIDAI

5. The concept of a Unique Identification (UID) scheme was first discussed and worked upon since 2006 when administrative approval for the scheme —Unique ID for BPL families^{II} was given on 3rd March, 2006 by the Department of Information Technology, Ministry of Communications and Information Technology.

6. Subsequently, a Processes Committee was set up on 3rd July, 2006 to suggest processes for updation, modification, addition and deletion of data fields from the core database to be created

under the said project. The Committee appreciated the need of a UID Authority to be created by an executive order under the aegis of the Planning Commission to ensure a pan-departmental and neutral identity for the Authority.

7. Thereafter, since the Registrar General of India was engaged in the creation of the National Population Register (NPR) and issuance of Multi-purpose National Identity Cards to citizens of India, it was decided with the approval of the Prime Minister, to constitute an Empowered Group of Ministers (EGoM) to collate the two schemes – the NPR under the Citizenship Act, 1955 and the UID scheme. The EGoM was also empowered to look into the methodology and specific milestones for early and effective completion of the scheme and take a final view on these. The EGoM was constituted on 4th December, 2006 and a series of meetings took place as follows:-- a) First meeting of

EGoM: 22nd November, 2007 : Recognized the need for creating an identity related resident database regardless of whether the database is created based on a de-novo collection of individual data or is based on already existing data such as the voter list.

Need to identify and establish institutional mechanism that will own the database and be responsible for its maintenance.

b) Second meeting of EGoM: 28th January, 2008
The proposal to establish UID Authority under the Planning Commission was approved.

c) Third meeting of EGoM: 7th August, 2008
Referred certain matters raised with relation to the UIDAI to a Committee of Secretaries for examination.

d) Fourth meeting of EGoM: 4th November, 2008
It was decided to notify UIDAI as an executive

authority. Decision on investing it with statutory authority would be taken up later. UIDAI would be anchored in the Planning Commission for five years after which a view would be taken as to where the UIDAI would be located within Government.

8. The UIDAI was constituted on 28th January, 2009 under the Chairmanship of Shri Nandan M. Nilekani as an attached office under the aegis of the Planning Commission. The UIDAI was inter-alia given the responsibility to lay down plan and policies to implement the UID scheme, own and operate the UID database and be responsible for its updation and maintenance on an ongoing basis. The Prime Minister's Council of UIDAI and a Cabinet Committee on UIDAI (called CC-UIDAI) were set up on 30th July, 2009 and 22nd October, 2009 respectively for achieving the objectives of the Authority.

9. Asked why the matter of conferring statutory status to the UIDAI was deferred, the Ministry of Planning have submitted their written response as under:-

"Based on the proposal that formation of the UIDAI under the Planning Commission would ensure better coordination with different departments, it was decided that initially the UIDAI may be notified as an executive authority under the Planning Commission and the issue of investing the UIDAI with statutory authority and the reconciliation of such statutory role with National Registration Authority (NRA) can be considered at an appropriate time.

10. Justifying the extension of the UID scheme, which is initially intended for BPL families, to all residents and other categories of individuals, the

Ministry of Planning in their written response have submitted as under:-

"The UID scheme was extended to all residents and other categories of individuals to gradually do away the de novo exercises each time for field level data collection. Simultaneously, it would also ensure that links to more and more identity based databases are created by inclusion of the UID number in their databases.

11. In this regard, Dr. R. Ramakumar, Expert, in his post-evidence reply has, among other things, added as follows:-

".....it has been proven again and again that in the Indian environment, the failure to enroll with fingerprints is as high as 15% due to the prevalence of a huge population dependent on manual labour. These are essentially the poor

and marginalised sections of the society. So, while the poor do indeed need identity proofs, aadhaar is not the right way to do that...."

12. The Ministry in their written reply have stated, among other things, that :-

"While there may be a number of factors contributing to the failure to enroll (like geography, age groups, occupation etc.) and the figures quoted..... may not hold good in all situations, failure to enroll is a reality.... For enrolment purpose, UIDAI has already built in processes to handle biometric exceptions."

D. Issuance of aadhaar numbers pending passing the Bill by Parliament 13. Justice Dr. M. Rama Jois, MP (Rajya Sabha) in his representation addressed to the Chairman, Standing Committee on Finance has inter-alia pointed out since the NIDAI Bill is

pending for consideration before the Standing Committee on Finance, implementation of the provisions of the Bill, issue of aadhaar numbers and incurring expenditure from the exchequer by the Government is a clear circumvention of Parliament, and therefore, should be kept in abeyance awaiting debate in and decision of both Houses of Parliament.

14. On being asked about the legal basis under which the UIDAI is functioning at present, and the mechanism that the UIDAI has adopted, since its inception, to deal with any of the issues like security and confidentiality of information and other offences related to issue of the aadhaar numbers, the Ministry of Planning in a written reply have inter-alia stated that:-

"...The matter about commencement of operation of the UIDAI before a legal

framework was put in place was referred to the Ministry of Law & Justice wherein opinion was sought on the issue whether in absence of a specific enabling law, would there be any constraints in collecting the data (including biometrics) and in issuing the UID numbers to residents in accordance with the mandate given to the Authority. The Ministry of Law & Justice, after examining the matter, had mentioned that it is a settled position that powers of the Executive are co-extensive with the legislative power of the Government and that the Government is not debarred from exercising its executive power in the areas which are not regulated by specific legislation. It had also been opined that till the time such legislation is framed the Authority can continue to function under the executive order issued by the Government and the scheme that may be prepared by the UIDAI. It was also opined that

the Authority can collect information/data for implementation of the UID scheme. Such implementation can be done by giving wide publicity to the scheme and persuading the agencies/individual to part with necessary information. The UIDAI has not faced issues such as breach of security and confidentiality, manipulation of biometrics, unauthorized access to the CIDR or other related offences since its inception....till the time Parliament passes the Bill, these matters will be covered by the relevant laws".

15. The opinion of the Attorney-General of India on the above mentioned issues as obtained by the Ministry of Law & Justice (Department of Legal Affairs) is furnished below:-

"The competence of the Executive is not limited to take steps to implement the law

proposed to be passed by Parliament. Executive Power operates independently. The Executive is not implementing the provisions of the Bill. The Authority presently functioning under the Executive Notification dated 28th January, 2009 is doing so under valid authority and there is nothing in law or otherwise which prevents the Authority from functioning under the Executive Authorisation.

The power of Executive is clear and there is no question of circumventing Parliament or the Executive becoming a substitute of Parliament. On the contrary, what is sought to be done is to achieve a seamless transition of the authority from an Executive Authority into a statutory authority.

All the expenditure which is being incurred is sanctioned by Parliament in accordance with

the financial procedure set forth in the Constitution. If the Bill is not passed by any reason and if Parliament is of the view that the Authority should not function and express its will to that effect, the exercise would have to be discontinued. This contingency does not arise. The present Bill being implemented without Parliaments' approval does not set a bad precedent in the Parliamentary form of Government. On the contrary, the fact that the Authority is sought to be converted from an Executive Authority to a statutory authority, it underlines the supremacy of Parliament".

16. On this issue, Dr. Usha Ramanathan, Expert, in her post-evidence reply has inter-alia stated that:-

"Article 73 of the Constitution delineates the extent of executive power of the Union and describes it as extending to matters with

respect to which Parliament has power to make laws.....

While the executive power of the Union, and of the States, is co-extensive with the legislative power of the Union and the States, this is a provision that sets out the limits of the power.

These are not provisions that are meant to make Parliament, or the legislatures, redundant. While executive power cannot extend beyond the legislative power of the Union and the States, Parliament and the legislatures can, and routinely do, set out the terms on which the executive is to function.

This is also how 'delegated legislation' or 'subordinate legislation' has to be within the extent of the 'parent statute'..... It is a plain misconception to think that the executive can do what it pleases, including in relation to infringing constitutional rights and protections

for the reason that Parliament and legislatures have the power to make law on the subject".

E. UID scheme

17. A resident who seeks to obtain an aadhaar number shall provide his / her demographic and biometric information to enrolling agencies appointed by Registrars. A resident who does not possess any documentary proof of identity or proof of address can obtain an aadhaar number by being introduced by an introducer.

18. The UIDAI has executed Memoranda of Understanding (MoU) with the partners including all the States and Union Territories, 25 financial institutions (including LIC) to act as Registrars for implementing the scheme. The roles and responsibilities of the partners flow from the MoU.

19. The UIDAI requires only basic identity data such as name, age, gender, address and relationship details in case of minors, for issue of unique identity number. This is commonly known as Know your Resident (KYR). The partner registrars are using this resident interface as an opportunity to update their own selected data bases such as ration card number, MGNREGS job card number, PAN card etc. This is commonly known as Know your Resident Plus (KYR+). Collection of these information is purely an initiative of respective Registrars and not mandatory for issue of aadhaar number.

20. The UIDAI is collecting bare minimum demographic information from the residents; any other kind of information, viz., rural, semi-urban and urban areas, persons with disabilities, migrant unskilled and unorganized workers, nomadic tribes and others who do not have any permanent

dwelling house, is not available with UIDAI. Asked how the coverage of marginalized sections of population, without having the data of aadhaar numbers issued to them, could be achieved, the Ministry has submitted that the Authority proposes to cover the marginalized and poor sections of the population through special enrolment camps organized for them.

21. In a news item dated 6th September, 2011, it has been reported that the Ministry of Home Affairs have identified flaws in the enrolment process followed by the UIDAI, citing cases where people have got aadhaar numbers on the basis of false affidavits.

22. Further, an expert has brought to the notice of the Standing Committee on Finance that issues of liability and responsibility for maintaining accuracy of data on the Register, conducting identity checks and ensuring the integrity of the overall operation

of the UID scheme have not been resolved. On being asked to comment on this, the Ministry of Planning have submitted a written reply as follows:-

".....Registrars have to put processes in place to ensure that the data collected is accurate. It is also the responsibility of the Registrars to appoint verifiers (for verifying the documents presented by the resident) and introducers to handle cases where the residents do not have any documents".

23. It has been reported in a news item that the Ministry of Home Affairs have alleged that some of the registrars have not adhered to the laid down procedures under UIDAI. It has also been noticed that the Government of Kerala, vide G.O.(MS)No:16/2011/ITD dated 3rd June, 2011 has inter-alia stated that the MoU was signed between UIDAI and Government of Kerala for implementation

of the UID project subject to condition that the clauses on the standards, protocol, criteria etc. in the MoU shall be in accordance with the State IT policy.

F. Global Experience

24. It has been brought to the notice of the Standing Committee on Finance that on the basis of the findings of London School of Economics (LSE) report, the Government of United Kingdom has abandoned its ID project (repealed its Identity Cards Act, 2006) citing a range of reasons, which includes high cost, unsafe, untested and unreliable technology, and the changing relationship between the state and the citizen etc.

To a specific issue of relevance of any of the above mentioned factors in the Indian context, it has been informed by the Ministry as follows:-

"There are significant differences between the UK's ID card project and the UID project and

to equate the two would not be appropriate.

The differences are as follows:-

a) The UK system involved issuing a card which stored the information of the individual including their biometrics on the card. UID scheme involves issuing a number. No card containing the biometric information is being issued. UK already has the National insurance number which is used often as a means to verify the identity of the individual.

b) The statutory framework envisaged made it mandatory to have the UK ID card. Aadhaar number is not mandatory.

c) The data fields were large and required the individual to provide accurate information of all other ID numbers such as driver's license, national insurance number and other such details thereby linking the UK ID card database to all other databases on which the individual

was registered. UID Scheme collects limited information and the database is not linked to other databases.

d) In UK, the legislative framework and structure approached it from a security perspective. The context and need in India is different. The UID scheme is envisaged as a mean to enhance the delivery of welfare benefits and services".

25. When asked as to whether any analysis has been carried out on the experience of countries where National IDs are in use as well as countries where it has been discontinued, the Ministry have inter-alia informed the Committee in a written reply as follows:-

"In some countries the use of smart cards to store significant data about the resident added to concerns about ID fraud and duplication.....

The comparisons between developed countries, which are looking at additional ID forms from a security perspective, versus India, a developing country which, like Brazil and Mexico, is attempting to, build the basic identity and verification infrastructure essential to delivering welfare benefits, and promoting inclusive growth, is not a reasonable one".

G. Existing identity forms vs need for aadhaar number

26. A view has been expressed that adding another form of identity (i.e. aadhaar number) without studying the possibility of using the existing forms of identity, for example, Voter ID card, to solve the

current problems appears to be a waste of resources.

27. The Ministry of Planning in a written submission have inter-alia stated the following:-

".....in the current framework there is no single document which is uniformly acceptable as proof of identity across India -- irrespective of age, gender and familial connections. Establishing identity is a challenge for the poor, particularly when they move from place to place as a consequence lack of proof of identity makes it difficult for the poor to access benefits and services.Aadhaar number is an enabler..... The benefits of aadhaar number are:-

"For residents: The aadhaar number will become the single source of identity verification. Once residents enroll, they can use the number multiple times -- they would be

spared the hassle of repeatedly providing supporting identity documents each time they wish to access services such as obtaining a bank account, passport, driving license, and so on.... the number will also give migrants mobility of identity.

For Registrars and enrollers: The UIDAI will only enroll residents after de-duplicating records. This will help Registrars clean out duplicates from their databases, enabling significant efficiencies and cost savings. For Registrars focused on cost, the UIDAI's verification processes will ensure lower Know Your Resident (KYR) costs. For Registrars focused on social goals, a reliable identification number will enable them to broaden their reach into groups that till now, have been difficult to authenticate. The strong authentication that the aadhaar number offers will improve services, leading to better resident satisfaction.

For Governments: Eliminating duplication under various schemes is expected to save the Government exchequer a substantial amount. It will also provide Governments with accurate data on residents, enable direct benefit programs, and allow Government departments to coordinate investments and share information.

28. The Ministry have further added that:

"....reason for starting the project is not for overriding existing Ids.....All the above documents are relevant to a domain and for a service. Aadhaar number is to be used as a general proof of identity and proof of address".

H. Identity and Eligibility

29. According to a news item dated 7th July, 2011, the operationalisation of aadhaar, the unique identification number, will make it possible to link

entitlements to targeted beneficiaries. But it will not ensure beneficiaries have been correctly identified. Thus, the old problem of proper identification that bedevils the present system will continue.

30. It has also been brought to the notice of the Standing Committee on Finance that a key issue in targeted welfare schemes is said to be of eligibility and not identity. Government entitlements are unavailable to the poor, primarily due to the eligibility determination process having many loopholes and lacunae. One identity like aadhaar number has nothing to do with such entitlements.

31. Asked to furnish comments, the Ministry of Planning in a written reply have stated that-

"....With aadhaar number integration in various Government schemes, the identity of the beneficiary gets established, by which it is ensured that the government scheme benefits reach the intended beneficiaries. Availability of

identity and eligibility information together provides an important tool to plug the loopholes in the eligibility determination process, and in managing the eligibility life cycle for a beneficiary".

32. Dr. Reetika Khera, Expert, while deposing before the Committee has inter-alia stated as follows:-

".....exclusion is more on account of poor coverage of these schemes. Say, for instance, in the Public Distribution System, the Planning Commission says that only x per cent of the rural population will get the BPL cards and because of that cap that is set at the Central level, we find that lots of people are excluded".

I. Aadhaar Number and National Population Register (NPR)

33. The Standing Committee on Finance, during briefing on the Bill held on 11th February, 2011, raised inter-alia the issue of possibility of dovetailing the UID exercise with the census operation. In this regard, the Ministry of Planning in their written reply have, among other things, stated as follows:-

"....the UIDAI is adopting a multiple registrar approach and the Registrar General of India (RGI) will be one of the Registrars of the UIDAI. To synergize the two exercises, an Inter Ministerial Coordination Committee has been set up to minimize duplication. The UIDAI is making all efforts to synergize with National Population Register (NPR) exercise....".

34. According to a news item dated 6th September, 2011, the Ministry of Home Affairs said that it would not be preferable to rely entirely on private

sector players' for biometric enrolments into the NPR since the population register will form the basis on which citizenship would be determined in the future. Unlike the UIDAI system, the NPR system follows an elaborate procedure to verify and cover the entire population of every area; and the data collected is subjected to 'social vetting'; and accountability can be fixed under the NPR system.

35. In an another news article it has been reported that while registration to the NPR is compulsory and a National Identity Number is linked to each name, the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 does not approve of linking biometrics with personal information. However, according to, the annual reports of the Ministry of Home Affairs, it said that integration of photographs and finger biometrics of 17.2 lakh out of 20.6 lakh records has been completed.

J. Coordination between the agencies involved in the UID scheme

36. In a detailed note on the NIDAI Bill, the Ministry of Planning have inter-alia submitted that:-

"Implementation of a project of this size is challenging. It involves co-ordination with multiple stakeholders and effective monitoring of implementation at every level....".

37. The Ministry of Finance (Department of Expenditure), however, while commenting on embedding aadhaar numbers in databases to enable interaction have stated that:-

"It must be done urgently by single agency, perhaps NPR. Cabinet has approved (22.7.2010) outlay of Rs. 3,023.01 crore inter-alia for assistance for Information Communication Technology (ICT) infrastructure of Rs. 450 crore for integrating/ synergizing Aadhaar numbers with existing

databases. Concerned about lack of co-ordination leading to duplication effort and expenditure with at least 6 agencies collecting information (NPR, MNREGA, BPL Census, UID, RSBY and Bank Smart Cards)".

38. It has been reported in a news item dated 3rd October, 2011 that the UID project has become focus of the ire of various arms of the government for rather disparate reasons. Asked to furnish the comments on the said news item, the Ministry of Planning have submitted a written reply.

K. Civil Liberties Perspective

39. In a detailed note on the Bill, the Ministry of Planning have stated that issues like access and misuse of personal information, surveillance, profiling, prohibiting other data bases from storing aadhaar numbers; and securing confidentiality of information which is in the registrars domain need

to be addressed in larger data protection legislation. In this connection, the Ministry have been asked to comment on the view that the Bill in its current form appears to be unsafe in law as there is no law at present on privacy, and data protection, therefore, it would be appropriate to consider the Bill for legislation only after passing the legislation on privacy, and data protection so as to ensure that there is no conflict between these laws. The Ministry in a written reply have inter-alia stated as under:-

"UIDAI has taken appropriate steps to ensure security and protection of data under this law and has incorporated data protection principles within its policy and implementation framework.....

Since appropriate steps have been taken, there is no dependency on the general data protection law.....when the data protection framework comes

into place the Authority will follow the same since a national data protection law will apply to all agencies and institutions collecting information.

Collection of information without a privacy law in place does not violate the right to privacy of the individual....There is no bar on collecting information, the only requirement to be fulfilled with respect to the protection of the privacy of an individual is that care should be taken in collection and use of information, consent of individual would be relevant, information should be kept safe and confidential...

.....The proposed Privacy law should also seek to strike a balance between the legitimate demands of protecting individual liberties while recognizing the need for larger public interest to prevail in certain well defined circumstances".

40. Responding to a suggestion received from PRS Legislative Branch that the existence of a unique

Identifier may facilitate record linkages across separate databases, the Ministry in a written reply have submitted that issues of linking and matching of databases need to be addressed through a data protection legislation which is currently being considered by the Department of Personnel. 41. The National Human Rights Commission (NHRC), on being asked to comment on the implications of the provisions of the Bill on the individual's right to privacy, has inter alia informed the Committee in their post-evidence reply as follows:-

....the right of privacy presupposes that such information relating to an individual which he would not like to share with others will not be disclosed. It may be mentioned that the right of privacy is not an absolute right....."

42. On the same issue, Dr. Usha Ramanathan, expert, in her post-evidence reply has stated that:-

"....The right to dignity, the right to privacy, personal security and safety, the protection against surveillance, are constitutionally protected. The production of a number accompanied by the use of methods such as fingerprinting and iris scanning is even more invasive than is permitted to be applied to alleged offenders. Article 20 (3) provides protection against compulsory extraction of personal information. Denying services, and rights, to persons because they are unwilling to part with the information in a manner that is more than likely to result in convergence and commodification of their personal information, surveillance, profiling, tagging and tracking is compulsory extraction that clearly reduces the constitutional rights of an ordinary citizen to less than that of an alleged offender. And that this is being done without the protection of law renders the exercise, per se, illegal. Apart from

its 'uses', the potential for abuse is undeniable. In a similar context, another court - the Philippines Supreme Court - said:the data may be gathered for gainful and useful government purposes; but the existence of this vast reservoir of personal information constitutes a covert invitation to misuse, a temptation that may be too great for some of our authorities to resist".

L. Financial Implications

(i) Feasibility Study

43. The Ministry of Planning in a detailed note on the Bill have stated that aadhaar number is cost-effective compared to other alternate targeted solutions to the problems identified in delivering services and benefits such as eliminating duplicate and fake identities. The Detailed Project Report (DPR) of the UID scheme has been prepared and

submitted by M/s. Ernst & Young Pvt.Ltd. in April, 2011.

44. Asked whether any committee has been set up to study the financial implications of the UID scheme; and also to furnish the details of feasibility study carried out, if any, covering all aspects of the UID scheme such as setting up of the proposed NIDAI, and cost-benefit analysis, the Ministry in a written reply have, among other things, submitted that:-

"No committee has been set up to study the financial implications of the UID scheme. As per laid down guidelines/procedure the Expenditure Finance Committee (EFC) reviews project proposals and its financial implications wherein the views of all stakeholders/ministries are taken in to account...

.....deliberations were held with all relevant stakeholders including Planning Commission,

Registrar General of India, Election Commission of India, Ministry of Rural Development, Ministry of Urban Development and State Governments. A Proof of Concept study was undertaken in the States of Gujarat, Karnataka, U.P. and Orissa in four rural and one urban locations to establish the feasibility of linking UID with partner-databases and to validate the possibility of one-time linkage which once established would be maintained on an ongoing basis by the UIDAI. An assessment study was carried out in 10 Central Ministries and their respective departments in four states (Karnataka, Uttar Pradesh, Gujarat and West Bengal".

(ii) Estimated cost of the UID scheme

45. The UID scheme is a Central Sector Scheme. The estimated cost of the Phase-I and Phase-II of

the scheme spread over five years is Rs.3170.32 crore (Rs.147.31 crore for Phase-I and Rs.3023.01 crore for Phase-II). The estimated cost includes scheme components for issue of 10 crore UID numbers by March, 2011 and recurring establishment costs for the entire scheme up to March, 2014. The Budget for Phase-III of the scheme to the tune of Rs.8861 crore has been approved. 46. According to news items, the total cost of the UID scheme may run up to Rs. 1,50,000 crore. Even after the commitment of such levels of expenditures, the uncertainty over the technological options and ultimate viability of the scheme remains. (iii) Comparative cost of aadhaar number and existing ID documents 47. Asked to furnish the details of comparative cost of existing ID documents (per individual), namely, Voter Id card, PAN card, driving license and aadhaar number, the Ministry has inter-alia informed the Committee in a written reply that the comparative costs of the

documents mentioned above are not available. (iv) Funding of other biometric projects 48. It is noticed that a project namely, Bharatiya - Automated Finger Print Identification System (AFSI), was launched in January, 2009, being funded by the Department of Information Technology, Ministry of Communications and Information Technology, for collection of biometric information of the people of the country. 49. Asked to clarify as to whether the biometric information (finger prints) being collected under the Bharatiya - AFSI project could also be used by the UIDAI, the Ministry have submitted that-

25

"The biometrics required for the aadhaar project are iris, ten finger prints and photograph. To ensure uniqueness of the individual, it is essential that the biometrics captured are as per the specifications laid down by the Biometrics Standards Committee.

The quality, nature and manner of collection of biometric data by other biometric projects may not be of the nature that can be used for the purpose of the aadhaar scheme and hence it may not be possible to use the fingerprints captured under the Bhartiya-AFSI project. (v) Revenue model of the UIDAI 50. According to a detailed note on the bill furnished by the Ministry of Planning, demographic data and address verification will be provided free of cost till a separate pricing policy is announced in due course. 51. However, in a news item dated 6th September, 2011, it has been reported that the Ministry of Home Affairs pointed out uncertainties in the UIDAI's revenue model.

M. Technology

52. The Biometrics Standards Committee set up by the UIDAI has recognized in its report that a

fingerprints-based biometric system shall be at the core of the UIDAI's de-duplication efforts. It has further noted that it is:

"...conscious of the fact that de-duplication of the magnitude required by the UIDAI has never been implemented in the world. In the global context, a de-duplication accuracy of 99% has been achieved so far, using good quality fingerprints against a database of up to fifty million. Two factors however, raise uncertainty about the accuracy that can be achieved through fingerprints. First, retaining efficacy while scaling the database size from fifty million to a billion has not been adequately analyzed. Second, fingerprint quality, the most important variable for determining de-duplication accuracy, has not been studied in depth in the Indian context".

53. Asked to explain the reliability of technical architecture of the UID scheme, the Ministry of Planning in a detailed note on the NIDAI Bill have, among other things, stated as follows:-

"The UID project is a complex technology project. Nowhere in the world has such a large biometric database of a billion people being maintained. The frontiers of technology in biometrics are being tested and used in the project.....

The technical architecture of the UID scheme is at this point, is based on high-level assumptions. The architecture has been structured to ensure clear data verification, authentication and de-duplication, while ensuring a high level of privacy and information security.....

The project team is learning and adapting to the challenges and ensuring that the solutions that are being offered are the best in the world to achieve the task....

54. Further asked as to given the high degree of assumptions on the reliability of technology adopted by the UIDAI and probability of system failures of different degrees, whether incurring huge costs on the UID scheme is prudent and affordable, the Ministry have stated in a written reply, among other things, as follows:-

".....UIDAI is cognizant of the fact that biometric matching (which is a patterns matching) by its very nature will suffer from inaccuracy. However, these inaccuracy levels are less than 1%. This cannot be a reason for not attempting to use the technology. It is well acknowledged that there will be failures in

authentication for various reasons. After Proof of Concept studies on authentication, appropriate policies and processes will be developed to take care of situations where failure occurs for various reasons.....The choice of using the authentication services is left to the third party service provider.....Concerned agencies will have to develop policies and procedures to handle such exceptional situations....."

55. In a news article, one of the representatives of the UIDAI has admitted that the quality of fingerprints is bad because of the rough exterior of fingers caused by hardwork, and this poses a challenge for later authentication.

N. National Security vs the UID scheme

(i) Illegal residents

56. A concern over the possibility of illegal residents getting aadhaar numbers, and the safeguards in this regard has been raised by the Standing Committee on Finance during the sitting held on 11 February, 2011. In a written reply, the Ministry of Planning have stated as under:-

"Aadhaar number is not a proof of citizenship or domicile [Clause 6 of the Bill]. It only confirms identity and that too subject to authentication [Clause 4(3)]. This is clearly mandated in the NIDAI Bill and the communication being sent to the resident.

It is the responsibility of the Registrars to enroll a resident after due verification as per the procedure laid down by the UIDAI. If a person is not a resident as per the Bill, the Authority is being vested with the power to omit/deactivate the aadhaar number [Clause

23 (2) (g)]. Subsequent attempts to enter the system can be detected".

(ii) Involvement of Private agencies

57. On the issue of security of proposed data of UIDAI, an unstarred question (no.2989) was raised in Rajya Sabha. The Minister of State in the Ministry of Planning and Minister of State in the Ministry of Parliamentary Affairs tabled the answer to the above said question in Rajya Sabha on 22 April, 2010 as follows:-

"National Informatics Centre (NIC) had pointed out that the issues relating to privacy and security of UID data, in case the data is not hosted in a Government data centre may be taken into consideration.

UIDAI is of the opinion that the hosting of data in a private data centre does not necessarily

lead to a violation of privacy or security. Appropriate contractual arrangement shall be put in place with the data centre space provider to ensure security and privacy of the data. At present, UIDAI does not have its own permanent facility to house its data centre. Therefore, 75 sq.ft of data centre space has been hired from M/s. ITI Ltd. for proof of concept and pilot on a rental basis".

58. The Ministry of Home Affairs, according to a news item, have questioned the security of citizens' biometric data in UIDAI's outsourced service oriented infrastructure' model.

59. To a specific query as to could outside agencies be allowed to partake in the UID scheme when doubts have been expressed on possible compromise with the interests of the national

security, the Ministry of Planning in a written reply have inter alia stated that:-

"....the UIDAI has followed government procurement process and engaged the appropriate agencies for the implementation of the UID scheme....The UIDAI has also implemented a comprehensive information security policy....."

60. It is, however, reported in various news articles as late as dated 26th November, 2011 that controversies between the Ministry of Home Affairs and the UIDAI over the issues such as manner and processes followed by the UIDAI, duplication of efforts between National Population Register and aadhaar, and security of data remain unresolved.

OBSERVATIONS / RECOMMENDATIONS

1. The Committee have carefully examined the written information furnished to them and heard the views for and against the National Identification Authority of India (NIDAI) Bill from various quarters such as the Ministry of Planning, the Unique Identification Authority of India (UIDAI), the National Human Rights Commission (NHRC) and experts. The clearance of the Ministry of Law & Justice for issuing aadhaar numbers, pending passing the Bill by Parliament, on the ground that powers of the Executive are co-extensive with the legislative power of the Government and that the Government is not debarred from exercising its Executive power in the areas which are not regulated by the legislation does not satisfy the Committee. The Committee are constrained to point out that in the instant case, since the law making is underway with the bill being pending, any executive

action is as unethical and violative of Parliament's prerogatives as promulgation of an ordinance while one of the Houses of Parliament being in session.

2. The Committee are surprised that while the country is on one hand facing a serious problem of illegal immigrants and infiltration from across the borders, the National Identification Authority of India Bill, 2010 proposes to entitle every resident to obtain an aadhaar number, apart from entitling such other category of individuals as may be notified from time to time. This will, they apprehend, make even illegal immigrants entitled for an aadhaar number. The Committee are unable to understand the rationale of expanding the scheme to persons who are not citizens, as this entails numerous benefits proposed by the Government. The Committee have received a number of suggestions for restricting the scope of the UID scheme only to the citizens and for

considering better options available with the Government by issuing Multi-Purpose National Identity Cards (MNICs) as a more acceptable alternative.

3. The Committee observe that prima facie the issue of unique identification number, which has been referred to as "aadhaar number" to individuals residing in India and other classes of individuals under the Unique Identification (UID) Scheme is riddled with serious lacunae and concern areas which have been identified as follows:-

(a) The UID scheme has been conceptualized with no clarity of purpose and leaving many things to be sorted out during the course of its implementation; and is being implemented in a directionless way with a lot of confusion. The scheme which was initially meant for BPL families has been extended for all residents in

India and to certain other persons. The Empowered Group of Ministers (EGoM), constituted for the purpose of collating the two schemes namely, the UID and National Population Register(NPR), and to look into the methodology and specifying target for effective completion of the UID scheme, failed to take concrete decision on important issues such as (a) identifying the focused purpose of the resident identity database; (b) methodology of collection of data; (c) removing the overlapping between the UID scheme and NPR; (d) conferring of statutory authority to the UIDAI since its inception; (e) structure and functioning of the UIDAI; (f) entrusting the collection of data and issue of unique identification number and national identification number to a single authority instead of the present UIDAI and its

reconciliation with National Registration Authority;

(b) The need for conferring of statutory authority to the UIDAI felt by the Government way back in November, 2008, but was deferred for more than two years for no reason. In this regard, the Ministry of Planning have informed the Committee that till the time Parliament passes the NIDAI Bill, crucial matters impinging on security and confidentiality of information will be covered by the relevant laws. The Committee are at a loss to understand as to how the UIDAI, without statutory power, could address key issues concerning their basic functioning and initiate proceedings against the defaulters and penalize them;

(c) The collection of biometric information and its linkage with personal information of individuals without amendment to the Citizenship Act, 1955 as well as the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003, appears to be beyond the scope of subordinate legislation, which needs to be examined in detail by Parliament;

(d) Continuance of various existing forms of identity and the requirement of furnishing "other documents" for proof of address, even after issue of aadhaar number, would render the claim made by the Ministry that aadhaar number is to be used as a general proof of identity and proof of address meaningless;

(e) In addition to aadhaar numbers being issued by the UIDAI, the issuance of smart

cards containing information of the individuals by the registrars is not only a duplication but also leads to ID fraud as prevalent in some countries; and

(f) The full or near full coverage of marginalized sections for issuing aadhaar numbers could not be achieved mainly owing to two reasons viz. (i) the UIDAI doesn't have the statistical data relating to them; and (ii) estimated failure of biometrics is expected to be as high as 15% due to a large chunk of population being dependent on manual labour.

4. The Committee regret to observe that despite the presence of serious difference of opinion within the Government on the UID scheme as illustrated below, the scheme continues to be implemented in an overbearing manner without regard to legalities and other social consequences:-

(i) The Ministry of Finance (Department of Expenditure) have expressed concern that lack of coordination is leading to duplication of efforts and expenditure among at least six agencies collecting information (NPR, MGNREGS, BPL census, UIDAI, RSBY and Bank Smart Cards);

(ii) The Ministry of Home Affairs are stated to have raised serious security concern over the efficacy of introducer system; involvement of private agencies in a large scale in the scheme which may become a threat to national security; uncertainties in the UIDAI's revenue model;

(iii) The National Informatics Centre (NIC) have pointed out that the issues relating to privacy and security of UID data could be better handled by storing in a Government data centre;

(iv) The Ministry of Planning have expressed reservation over the merits and functioning of the UIDAI; and the necessity of collection of iris image;

(v) Involvement of several nodal appraising agencies which may work at cross-purpose; and

(vi) Several Government agencies are collecting biometric(s) information in the name of different schemes.

5. The Committee are also unhappy to observe that the UID scheme lacks clarity on many issues such as even the basic purpose of issuing "aadhaar" number. Although the scheme claims that obtaining aadhaar number is voluntary, an apprehension is found to have developed in the minds of people that in future, services / benefits including food entitlements would be denied in case they do not have aadhaar number.

It is also not clear as to whether possession of aadhaar number would be made mandatory in future for availing of benefits and services. Even if the aadhaar number links entitlements to targeted beneficiaries, it may not ensure that beneficiaries

have been correctly identified. Thus, the present problem of proper identification would persist. It is also not clear that the UID scheme would continue beyond the coverage of 200 million of the total population, the mandate given to the UIDAI. In case, the Government does not give further mandate, the whole exercise would become futile.

6. Though there are significant differences between the identity system of other countries and the UID scheme, yet there are lessons from the global experience to be learnt before proceeding with the implementation of the UID scheme, which the Ministry of Planning have ignored completely. For instance, the United Kingdom shelved its Identity Cards Project for a number of reasons, which included:- (a) huge cost involved and possible cost overruns; (b) too complex; (c) untested, unreliable and unsafe technology; (d) possibility of risk to the safety and security of citizens; and (e) requirement

of high standard security measures, which would result in escalating the estimated operational costs. In this context, the Report of the London School of Economics" Report on UK"s Identity Project inter-alia states that ".....identity systems may create a range of new and unforeseen problems.....the risk of failure in the current proposals is therefore magnified to the point where the scheme should be regarded as a potential danger to the public interest and to the legal rights of individuals". As these findings are very much relevant and applicable to the UID scheme, they should have been seriously considered.

7. The UID scheme facilitates the UIDAI and the registrars to create database of information of people of the country. Considering the huge database size and possibility of misuse of information, the Committee are of the view that enactment of national data protection law, which is

at draft stage with the Ministry of Personnel, Public Grievances and Pensions, is a pre-requisite for any law that deals with large scale collection of information from individuals and its linkages across separate databases. In the absence of data protection legislation, it would be difficult to deal with the issues like access and misuse of personal information, surveillance, profiling, linking and matching of data bases and securing confidentiality of information etc.

8. The Committee note that the Ministry of Planning have admitted that (a) no committee has been constituted to study the financial implications of the UID scheme; and (b) comparative costs of the aadhaar number and various existing ID documents are also not available. The Committee also note that Detailed Project Report (DPR) of the UID Scheme has been done much later in April, 2011. The Committee thus strongly disapprove of the

hasty manner in which the UID scheme has been approved. Unlike many other schemes / projects, no comprehensive feasibility study, which ought to have been done before approving such an expensive scheme, has been done involving all aspects of the UID scheme including cost-benefit analysis, comparative costs of aadhaar number and various forms of existing identity, financial implications and prevention of identity theft, for example, using hologram enabled ration card to eliminate fake and duplicate beneficiaries.

9. The Committee are afraid that the scheme may end up being dependent on private agencies, despite contractual agreement made by the UIDAI with several private vendors. As a result, the beneficiaries may be forced to pay over and above the charges to be prescribed by the UIDAI for availing of benefits and services, which are now available free of cost.

10. The Committee find that the scheme is full of uncertainty in technology as the complex scheme is built up on untested, unreliable technology and several assumptions. Further, despite adverse observations by the UIDAI's Biometrics Standards Committee on error rates of biometrics, the UIDAI is collecting the biometric information. It is also not known as to whether the proof of concept studies and assessment studies undertaken by the UIDAI have explored the possibilities of maintaining accuracy to a large level of enrolment of 1.2 billion people. Therefore, considering the possible limitations in applications of technology available now or in the near future, the Committee would believe that it is unlikely that the proposed objectives of the UID scheme could be achieved.

11. The Committee feel that entrusting the responsibility of verification of information of individuals to the registrars to ensure that only

genuine residents get enrolled into the system may have far reaching consequences for national security. Given the limitation of any mechanism such as a security audit by an appropriate agency that would be setup for verifying the information etc., it is not sure as to whether complete verification of information of all aadhaar number holders is practically feasible; and whether it would deliver the intended results without compromising national security. As the National Identity Cards to citizens of India are proposed to be issued on the basis of aadhaar numbers, the possibility of possession of aadhaar numbers by illegal residents through false affidavits / introducer system cannot be ruled out.

12. The Committee take note that the Ministry of Home Affairs have alleged that some of the registrars have not adhered to the laid down procedures under UIDAI which renders the

Memoranda of Understanding (MoU) signed between the UIDAI and the registrars meaningless; and it compromises the security and confidentiality of information of aadhaar number holders. Even, according to the latest media reports, controversies between the Ministry of Home Affairs and the UIDAI over issues such as the manner and processes followed by the UIDAI, duplication of efforts between NPR and aadhaar, and security of data still remain unresolved.

13. In view of the afore-mentioned concerns and apprehensions about the UID scheme, particularly considering the contradictions and ambiguities within the Government on its implementation as well as implications, the Committee categorically convey their unacceptability of the National Identification Authority of India Bill, 2010 in its present form. The data already collected by the UIDAI may be transferred to the National

Population Register (NPR), if the Government so chooses. The Committee would, thus, urge the Government to reconsider and review the UID scheme as also the proposals contained in the Bill in all its ramifications and bring forth a fresh legislation before Parliament.

New Delhi

YASHWANT SINHA

11 December, 2011

Chairman,

20 Agrahayana, 1933 (Saka) Standing Committee
on Finance

Appendix I

NOTE OF DISSENT

Shri Raashid Alvi, MP

I do not agree with the paragraph "13" of the draft Report on ---The National Identification Authority of India Bill, 2010".

I suggest to delete "this para".

Sd/-

Dated: 7 December, 2011

(RAASHID ALVI)

NOTE OF DISSENT

Prem Das Rai, MP

The National Identification Authority of India
Bill, 2010

At the outset I do not believe that the bill should be rejected in the manner it has been. Since I have been inducted into the Committee recently I do not have the inputs that went in when the stakeholders and other Government departments were giving witness. I also do not know whether we gave enough time to the UID implementers to give evidence and present their point of view.

Hence, I would like to place on record that the issue of giving out Aadhaar numbers under the UID scheme, I believe, is one of the greatest import for social and economic inclusion in this country. I

I personally am privy to the kind of work that is needed at the grassroots as I was part of an organisation that did such work in the North East of India and other backward regions using some form of technology to bring in inclusion.

The linking of a person to a number and then being able to make give access to the right to that person is transformational. It is the next phase of transformation that technology can bring about in our own country. This has never been done anywhere in the world and we should be rightly proud of this.

I do agree there may be serious issues that need to be factored in which my esteemed colleagues have pointed out.

I recommend that the Bill may be discussed in Parliament bringing about some of the changes so desired and do not concur that the Bill be brought fresh.

Sd/-

Dated: 8 December, 2011

(PREM DAS RAI)

NOTE OF DISSENT

Manicka Tagore, MP

I could not attend this meeting on adoption of the draft report on the National Identification Authority of India Bill, 2010 because a very important discussion on the price rise was going on in the Lok Sabha. The Govt. of India with a view to ensure that the benefits of centrally sponsored schemes reaches to right persons and not misused, they had decided to issue unique identification numbers to all residents in India and to certain other persons the basic idea was to identification of the persons. The Adhar programme has been launched first time in India. The UIDAI officials had taken all possible precautions to make the exercise safe and secure. Both demographic and biometric datas were collected and its method of collecting

datas were approved by the Demofic Standard and Verification Procedure Committee.

It is surprising to know that the committee members have not yet recognized the value of UID. This system will cut down fraud and corruption in every area of administration.

I dissent the observation and recommendation of the Standing Committee on Finance regarding the Draft Report on the National Identification Authority of India Bill, 2010. I request the Chairman that the UID bill may kindly be considered by the Government with our views and not rejected.

Sd/-

Dated 10 December, 2011

(MANICKA TAGORE)

Appendix II

MINUTES OF THE THIRTEENTH SITTING OF THE
STANDING COMMITTEE ON FINANCE (2010-11)

The Committee sat on Friday, the 11th February,
2011 from 1130 hrs to 1400 hrs.

PRESENT

Shri Yashwant Sinha – Chairman

MEMBERS

LOK SABHA

2. Shri Bhartruhari Mahtab
3. Smt. Jaya Prada Nahata
4. Shri Rayapati Sambasiva Rao
5. Dr. Kavuru Sambasiva Rao
6. Shri Manicka Tagore

RAJYA SABHA

7. Shri S.S. Ahluwalia
8. Shri Raashid Alvi
9. Shri Piyush Goyal
10. Shri Moinul Hassan

SECRETARIAT

1. Shri A. K. Singh – Joint Secretary
2. Shri T. G. Chandrasekhar – Additional Director

3. Shri Ramkumar Suryanarayanan – Deputy Secretary

4. Smt. B. Visala – Deputy Secretary

WITNESSES

Ministry of Planning

1. Ms. Sudha Pillai, Member-Secretary
2. Shri Pronab Sen, Pr. Adviser
3. Shri Chaman Kumar, Addl. Secretary & FA
4. Shri C. Muralikrishna Kumar, Sr. Adviser
5. Shri T.K. Pandey, Joint Secretary (Admn.)

Unique Identification Authority of India (UIDAI)

1. Shri Nandan Nilekani, Chairman
2. Shri R.S. Sharma, Director-General

2. The Committee took evidence of the representatives of the Ministry of Planning and Unique Identification Authority of India (UIDAI) in

connection with the examination of the National Identification Authority of India Bill, 2010. Major issues discussed with the representatives included, need for providing statutory status to the Unique Identification Authority of India (UIDAI); Definition of 'Resident'; provision for de-activating the Aadhaar Number; collection of demographic information and biometric information; nature of enrolment and special measures for enrolment of weaker sections. The Chairman directed the representatives to furnish replies to the points raised during the sitting within one week.

The witnesses then withdrew.

A verbatim record of proceedings was kept.

The Committee then adjourned.

Part III

(1400 hrs. to 1715 hrs.)

WITNESSES

Confederation of Indian Industry (CII)

1. Mr. Arun Duggal, Vice Chairman, International Asset Reconstruction Company (IARC) and Chairman Shriram Capital Limited
2. Mr. Chirag Jain, Chief Operating Officer Canara HSBC Oriental Bank of Commerce Life Insurance Company Limited
3. Mr. Ravi Gandhi, VP, Corporate Regulatory Affairs Bharti Airtel
4. Mr. Rameesh Kailasam, Program Director IBM India Pvt. Limited
4. The Committee heard the representatives of Confederation of Indian Industry (CII) in connection with examination of 'The National Identification Authority of India Bill, 2010'. The major issues discussed included, existing ID proof documents and the rationale and necessity of aadhaar number; usage, benefits and objects of aadhaar number;

role of aadhaar number in planning and formulation of social policies; collection of biometric and demographic information; measures for enrolment of certain categories like persons with disability; exploration of alternate and economical identity system; opening up of Registrars and enrolment agencies to private sector; technological issues involved in the UID project; financial implications of the UID project; impact of the provisions of the Bill on the individual's right to privacy; potential of possible use of aadhaar numbers by illegal residents; lessons learnt from global practice and failures experienced in different countries in establishment of identity system similar to aadhaar number especially relevance of report of London School of Economics on UK Identity Act, 2006; legality of implementation of the UID project before the law is enacted by the Parliament; making the penal provisions of the Bill in line with IT Act, 2000 etc. The Chairman directed the representatives of

Confederation of Indian Industry (CII) to give suggestions clause-by-clause along-with the replies to the points raised by the Members within ten days.

The witnesses then withdrew.

WITNESSES

Experts

1. Dr. Usha Ramanathan, Independent Law Researcher on the jurisprudence on Law, Poverty and Rights, New Delhi
2. Dr. R. Ramakumar, Associate Professor, Tata Institute of Social Sciences, Mumbai
3. Shri Gopal Krishna, Member, Citizen Forum for Civil Liberties, New Delhi
5. The Committee then heard the experts on "The National Identification Authority of India Bill, 2010". The major issues discussed broadly related to beneficiaries of aadhaar number including the

eligibility of children; feasibility study on the UID project; costs and benefits analysis of the UID project; global experience in creation of a national data base of its citizens with biometrics; convergence of data, its usage and its consequences; functioning of the UIDAI under Executive order and implementation of the UID project before an enactment of law; impact of the provisions of the Bill on civil rights and liberties; implications of the provisions of the Bill on RTI Act, 2005; responsibilities of 'Introducer' and liability of the UIDAI; outsourcing of works by the UIDAI and its responsibilities; alternate system of identification etc. The Chairman directed the experts to furnish replies to the points raised by the Members during the discussion within ten to fifteen days.

A verbatim record of the proceedings was kept.

The witnesses then withdrew

The Committee then adjourned

Minutes of the Sixth sitting of the Standing
Committee on Finance (2011-12)

The Committee sat on Thursday, the 08th
December, 2011 from 1500 hrs. to 1615 hrs.

PRESENT

Shri Yashwant Sinha - Chairman

MEMBERS

LOK SABHA

2. Shri Shivkumar Udasi Chanabasappa
3. Shri Harishchandra Deoram Chavan
4. Shri Bhakta Charan Das
5. Shri Nishikant Dubey
6. Shri Chandrakant Khairre
7. Shri Bhartruhari Mahtab
8. Shri Prem Das Rai
9. Dr. Kavuru Sambasiva Rao
10. Shri Rayapati S. Rao
11. Shri Magunta Sreenivasulu Reddy
12. Shri G.M. Siddeswara
13. Shri Yashvir Singh
14. Shri R. Thamaraiselvan
15. Dr. M. Thambidurai

RAJYA SABHA

16. Shri S.S. Ahluwalia
17. Shri Raashid Alvi
18. Shri Vijay Jawaharlal Darda
19. Shri Moinul Hassan
20. Shri Satish Chandra Misra
21. Shri Mahendra Mohan
22. Dr. Mahendra Prasad
23. Dr. K.V.P. Ramachandra Rao
24. Shri Yogendra P. Trivedi

SECRETARIAT

1. Shri A. K. Singh – Joint Secretary
2. Shri R.K. Jain – Director
3. Shri Ramkumar Suryanarayanan – Deputy Secretary

2. The Committee took up the following draft Reports for consideration and adoption:-

(i) The Insurance Laws (Amendment) Bill, 2008;

(ii) The National Identification Authority of India Bill, 2010; and

(iii) The Banking Laws (Amendment) Bill, 2011.

3. The Committee adopted the above draft reports with some minor modifications/changes as suggested by Members. The Committee authorised the Chairman to finalise the Reports in the light of the modifications suggested and present these Reports to Parliament.

The Committee then adjourned.

//True copy//

ANNEXURE P-4

THE CITIZENSHIP (REGISTRATION OF CITIZENS
AND ISSUE OF NATIONAL IDENTITY CARDS)
RULES, 2003

In exercise of the powers conferred by sub-sections (1) and (3) of section 18 of the Citizenship Act, 1955 (57 of 1955), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions--In these rules, unless the context otherwise requires,--

(a) "Act" means the Citizenship Act, 1955 (57 of 1955);

(b) "Chief Registrar of Births and Deaths" means the Chief Registrar of Births and Deaths appointed under the Registration of Births and Deaths Act, 1969 (18 of 1969);

(c) "citizen" means the citizen of India in terms of the Constitution of India and provisions of the Act;

(d) "Director of Citizen Registration" means the Director of Census in a State or Union territory appointed by the Central Government under the Census Act, 1948 (37 of 1948), who shall also function as the Director of Citizen Registration in

that State, or as the case may be, in the Union territory;

(e) "District Register of Indian Citizens" means the register containing details of Indian citizens usually residing in the district;

(f) "District Registrar of Citizen Registration" means the District Magistrate of every revenue district, by whatever name known, who shall act as the District Registrar of Citizen Registration;

(g) "Local Register of Indian Citizens" means the register containing details of Indian citizens usually residing in a village or rural area or town or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area;

(h) "Local Registrar of Citizen Registration" means a local officer, or a revenue officer, appointed by the State Government at the lowest geographical jurisdiction, that is to say, of a village or rural area or town, or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area, who shall function as Local Registrar for the purpose of preparation of Local Register of Indian Citizens;

(i) "National Identity Card" means the identity card issued under rule 13;

(j) "National Identity Number" means a unique identity number allotted to every Indian Citizen by the Registrar General of Citizen Registration, India;

(k) "National Register of Indian Citizens" means the register containing details of Indian Citizens living in India and outside India;

(1) "Population Register" means the register containing details of persons usually residing in a village or rural area or town or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area;

(m) "Registrar General of Citizen Registration" means the Registrar General, India, appointed under the Registration of Births and Deaths Act, 1969 (18 of 1969), who shall also function as the Registrar General of Citizen Registration, India;

[(ma) "Schedule" means a Schedule appended to these rules;]

1

(n) "State Register of Indian Citizens" means the register containing details of Indian citizens usually residing in the State;

(o) "Sub-district or Taluk Registrar of Citizen Registration" means the Sub-district Magistrate or Taluk Executive Magistrate of every sub-district or taluk, by whatever name known, as the case may be, who shall function as Sub-district or Taluk Registrar of Citizen Registration;

(p) "Sub-district Register of Indian Citizens" means the register containing details of Indian citizens usually residing in a taluk, or by whatever name known, of the sub-district. 3 National Register of

Indian Citizens.—(1) The Registrar General of Citizen Registration shall establish and maintain the National Register of Indian Citizens.

(2) The National Register of Indian Citizens shall be divided into sub-parts consisting of the State Register of Indian Citizens, the District Register of Indian Citizens, the Sub-district Register of Indian Citizens and the Local Register of Indian Citizens and shall contain such details as the Central Government may, by order, in consultation with the Registrar General of Citizen Registration, specify.

(3) The National Register of Indian Citizens shall contain the following particulars in respect of every Citizen, namely—

- (i) Name;
- (ii) Father's name;
- (iii) Mother's name;

- (iv) Sex;
- (v) Date of birth;
- (vi) Place of birth;
- (vii) Residential address (present and permanent);
- (viii) Marital status—if ever married¹ name of the spouse;
- (ix) Visible identification mark;
- (x) Date of registration of Citizen;
- (xi) Serial number of registration; and
- (xii) National Identity Number.

(4) The Central Government may, by an order issued in this regard, decide a date by which the Population Register shall be prepared by collecting information relating to all persons who are usually residing within the jurisdiction of Local Registrar

(5) The Local Register of Indian citizens shall contain details of persons after due verification made from the Population Register.

4. Preparation of the National Register of Indian Citizens.—(1) The Central Government shall, for the purpose of National Register of Indian Citizens, cause to, carry throughout the country a house-to-house enumeration for collection of specified particulars relating to each family and individual, residing in a local area including the Citizenship status.

(2) The Registrar General of Citizen Registration shall notify the period and duration of the enumeration in the Official Gazette.

(3) For the purposes of preparation and inclusion in the Local Register of Indian Citizens, the particulars collected of every family and individual in the Population Register shall be verified and scrutinized by the Local Registrar, who may be assisted by one or more persons as specified by the Registrar General of Citizen Registration.

(4) During the verification process, particulars of such individuals, whose Citizenship is doubtful, shall be entered by the Local Registrar with appropriate remark in the Population Register for further enquiry and in case of doubtful Citizenship, the individual or the family shall be informed in a specified proforma immediately after the verification process is over.

(5) (a) Every person or family specified in sub-tule (4), shall be given an opportunity of being heard by

the Sub-district or Taluk Registrar of Citizen Registration, before a final decision is taken to include or to exclude their particulars in the National Register of Indian Citizens.

(b) The Sub-district or Taluk Registrar shall finalize his findings within a period of ninety days of the entry being made, or within such reasonable extended time for which he shall record the reasons in writing.

(6) (a) The draft of the Local Register of Indian Citizens shall be published by the Sub-district or Taluk Registrar, for inviting any objections or for inclusion of any name or corrections for the family or individual particulars collected and proposed to be finally entered in the National Register of Indian Citizens.

(b) Any objection against a particular entry or for inclusion of a name, or corrections if any, in the Local Register of Indian Citizens may be made within a period of thirty days from the date of publication of the draft of the Local Register of Indian Citizens, spelling out the nature and reasons for the objection in such form as may be specified by the Registrar General of Citizen Registration.

(c) Subject to the provisions contained, in clause (a) of sub-rule (5), the Sub-district or Taluk Registrar shall consider such objections and summarily dispose off the same within a period of ninety days, and thereafter submit the Local Register of Indian Citizens so prepared to the District Registrar of Citizen Registration who shall, cause the entries in the Local Register of Indian Citizens, to be transferred to the National Register of Indian Citizens.

(7) (a) Any person aggrieved by the order of the Sub-district or Taluk Registrar under sub-rule (5) or sub-rule (6), may prefer an appeal within thirty days from the date of such order, to the District Registrar of Citizen Registration.

(b) The District Registrar of Citizen Registration shall take a final decision, after giving an opportunity of being heard to the person so aggrieved, within a period of ninety days from the date of appeal.

(c) In case the appeal is allowed, the particulars shall be entered in the National Register of Indian Citizens.

[4A. Special provisions as to National Register of Indian Citizens in State of Asam.—(1) Nothing in rule 4 shall on and after the commencement of the

Citizenship (Registration of Citizens and issue of National Identity Cards) Amendment Rules, 2009, apply to the State of Assam.

(2) The Central Government shall, for the purpose, of the National Register of Indian Citizens in the State of Assam, cause to carry out throughout the State of Assam for preparation of the National Register of Indian Citizens in the State of Assam .by inviting applications from all the residents, for collection of specified particulars relating to each family and individual, residing in a local area in the State including the citizenship status based on the National Register of Citizens 1951 and the 2[electoral rolls upto the midnight of the 24th day of March, 1971].

(3) The Registrar General of Citizens Registration shall notify the period and duration of the enumeration in the Official Gazette.

(4) The manner of preparation of the National Register of Indian Citizens in the State of Assam shall be such as specified in the Schedule appended to these rules.]

5. Officials of the Central Government, State Governments and local bodies to assist the Registrar General of Citizen Registration.—Every official of the Central Government, State Government, local bodies or their undertakings shall assist the Registrar General of Citizen Registration or any person authorized by him in this behalf, in preparation of the database relating to each family and every person, and in implementing the provisions of these rules.

6. Initialization of National Register of Indian Citizens.--(1) The Registrar General Of Citizen Registration shall, by order, notify the date on which the National Register of Indian Citizens shall be initialized throughout the country.

(2) The order made under sub-rule (1) may provide for the initialization period specified by the Registrar General of Citizen Registration for establishment of the National Register of Indian Citizens.

(3) Every individual must get himself registered with the Local Registrar of Citizen Registration during the period of initialization as specified under sub-rule (2).

7. Head of family and individual to act as informant.--(1) It shall be compulsory for every

citizen of India to assist the officials responsible for preparation of the National Register of Indian Citizens under rule 4 and get himself registered in the Local Register of Indian Citizens during the period of initialization.

(2) It shall be the responsibility of the head of every family, during the period specified for preparation of the Population Register, to give the correct details of name and number of members and other particulars, as specified in sub-rule (3) of rule 3, of the family of which he is the head.

(3) It shall be the responsibility of every Citizen to register once with the Local Registrar of Citizen Registration and to provide correct individual particulars to that authority.

(4) In the case of dependents, such as minor who has not attained the age of eighteen years, or who is disabled, the responsibility of reporting the particulars under this rule shall be of the head of the family:

Provided that in so far as inmates of institutions, such as orphanages, old age homes, mental asylums are concerned, the responsibility for providing the requisite details shall lie with the head of the Institution.

8. Power of District Registrar, Sub-district or Taluk Registrar or Local Registrar of Citizen Registration to obtain information.—The District Registrar, Sub-district or Taluk Registrar or the Local Registrar of Citizen Registration may, by order, require any person to furnish any information within his knowledge in connection with the determination of

citizenship status of any person and the person required to furnish information shall be bound to comply with such requisition.

9. Procedure as to making of entries in National Register of Indian Citizens.—The Registrar General of Citizen Registration may, by order, specify the procedure to be followed in preparation of the National Register of Indian Citizens and disposal of claims and objections with regard to family and individual particulars proposed to be entered in that Register.

10. Deletion of name and particulars from National Register of Indian Citizens.—(1) The name and particulars of a Citizen may be removed from the National Register of Indian Citizens by an order of the Registrar General of Citizen Registration or any officer authorized by him in this behalf in the event

of—

(i) death of the person; or

(ii) the person ceasing to be an Indian citizen under section 8 of the Act; or

(iii) revocation of Indian citizenship under section 9 of the Act,, or

(iv) the particulars provided by the individual or the family found to be incorrect subsequently, thereby affecting the Citizenship status of the person.

(2) It shall be the duty of the Indian Citizen concerned to inform the District Registrar of Citizen Registration, within a period of thirty days, about the cessation of his Indian citizenship under clause (ii) of sub-rule (1).

(3) in the event of an order under sub-rule (1), the person concerned, or in the event of his death his nearest relative, shall be duly informed about the deletion of any entry from the National Register of Indian Citizens:

Provided that any person aggrieved by the order of an authorized officer may prefer an appeal against such order to the Authority within a period of thirty days of such order.

(4) The appeal under sub-rule (3) shall be disposed off, after giving to the appellant an opportunity of being heard, and produce any documentary or oral evidence in support of his claim.

11. Maintenance and updating of National Register of Indian Citizens.--- (1.) The Registrar General of Citizen Registration shall cause to maintain the National Register of Indian Citizens in electronic or

some other form which shall entail its continuous updating on the basis of extracts from various Registers specified under the Registration of Births and Deaths Act, 1969 (18 of 1969) and the Act.

(2) It shall be the responsibility of the head of each and every family to ensure that any event of birth or death occurring in the family has been duly entered in, or deleted from, the Local Register of Indian Citizens.

(3) The Chief Registrar of Births and Deaths and all other officials engaged in the registration of births and deaths shall assist the Registrar General of Citizen Registration in updating the National Register of Indian Citizens as required under sub-rule (1).

12. Modification of entries in National Register of Indian Citizens.—The Sub-district or Taluk Registrar

may, on an application made by the concerned person and after due verification, authorize the modification of any entry in respect of the following particulars in National Register of Indian Citizens, namely:—

(a) change of name; or

(b) the name of the applicant's parent in case his status has been altered by adoption under the relevant laws; or

(c) change of residential address; or

(d) change of marital status; or

(e) change of sex.

13. issue of National identity Cards.—The Registrar General of Citizen Registration, or any officer authorized by him in this behalf, shall issue the

National Identity Card to every Citizen whose particulars are entered in the National Register of Indian Citizens under sub-rule 3) of rule 3.

14. National identity Cards to be Government property and responsibility of Citizens to keep them properly.—(1) The National identity Card shall be the property at the Central Government.
(2) No person shall willfully destroy, alter, transfer or use in any form the National identity Card, except for the lawful purposes.

(3) On the happening of any of the events specified under sub-rule (1) of rule 10, the National Identity Card shall be surrendered, by the Citizen concerned or his nearest relative, as the case may be, to the Registrar General of Citizen Registration or any other authorized officer acting on his behalf.

(4) In the event of a loss of the National Identity Card, it shall be the duty of the Citizen or his nearest relative, as the case may be, to report the matter immediately to the nearest police station and the concerned Authority.

15. Designation of National Registration Authority and officers.---(1) On and from the date of commencement of these rules, the Registrar General, India shall be designated as the Registrar General of Citizen Registration, India who shall also function as such for the purposes of these rules.

(2) The Central Government may designate—

(a) one or more officers as Additional or Joint or Deputy Registrar General of Citizen Registration

and such other officers and staff as may be required; and

(b) an officer as a Director, and one or more officers as Joint Director, Deputy Director, Assistant Director of Citizen Registration for each of the States and the Union territories along with requisite support staff, to assist the Registrar General of Citizen Registration in discharging the functions and responsibilities under these rules.

(3) The State Government shall notify a State Coordinator of National Registration not below the rank of a Secretary in the State Government or equivalent.

16. Supervision and Control of Registrar General of Citizen Registration over District, Sub-district or Taluk and Local Registrars of Citizen Registration.--

(1) The State Governments shall designate an officer or a person as Local Registrar of Citizen Registration for each lowest geographical jurisdiction, that is to say, of a village or rural area or town, or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area who shall function as Local Registrar for the purpose of preparation of Local Register of Indian Citizens.

(2) Every Local Registrar of Citizen Registration shall function under the overall supervision of the Sub-district or Taluk Registrar of Citizen Registration.

(3) Every Sub-district or Taluk Registrar of Citizen Registration shall function under the overall supervision of the District Registrar of Citizen Registration.

(4) For the purposes of implementing and carrying out the provisions of these rules, the District Registrar, the Sub-district or Taluk Registrar and the Local Registrar of Citizen Registration shall be under the supervision and control of the Registrar General of Citizen Registration.

(5) The Registrar General of Citizen Registration or any officer authorized by him at any time may call for any records for examination, and issue directions regarding inclusion or exclusion of any individual or family particulars from the Population Register or Local Register of Indian Citizens, to the District Registrar, the Sub-district or taluk Registrar and the Local Registrar of Citizen Registration.

17. Penal consequences in certain cases.—Any violation of provisions of rules 5, 7, 8, 10, 11 and 14

shall be punishable with fine which may extend to one thousand rupees.

18. Guidelines for collection of particulars of individuals, verification, issue of National Identity Cards, etc.—The Registrar General of Citizen Registration may, in consultation with the Central Government, issue from time to time, such guidelines to the State Governments as are considered necessary for implementation of these rules.

SPECIAL PROVISIONS AS TO MANNER OF
PREPARATION OF
NATIONAL REGISTER OF INDIAN CITIZEN IN STATE
OF ASSAM

1. Definitions.—(1) In this Schedule, unless. The context otherwise. requires,

(a) "National Register of Citizens 1951" means the Register containing details of Indian; citizens residing in the State of Assam, as mentioned in the

National Register of Citizens which was prepared along with 1951 census under a directive of the Ministry of Home Affairs;

2[(b) "electoral rolls up to the midnight of the 24th day of March, 1971" means the electoral rolls containing details of voters prepared by the Election Commission of India or the State Election Commission of the State of Assam in a relevant period upto the midnight of the 24th day of March, 1971.]

(2) All other words and expressions used herein and not defined but defined in rule 2 of these rules, shall have the meanings, respectively, assigned to them in that rule.

2. Manner of preparation of draft National Register of Indian Citizen in State of Assam.—(1) (a) The

District Magistrate shall cause to be published the copies of the National Register of Citizens 1951 and 3[electoral rolls upto the midnight of the 24th day of March, 1971]. as available, sufficient numbers and publish it and send, the same to the Local Register of Citizen Registration for wide circulation and public inspection in each village and ward.

(b) The Local Registrar of Citizen Registration shall select centrally located public places for display of the records and for issue and receipt of the application forms.

(c) The Local Registrar of Citizens Registration shall be the custodian of the records in the area under his jurisdiction and shall be responsible for its display during the office hours.

(2) The Local Registrar of citizen registration shall receive the filled up application forms, at the same place where the applications are issued, and issue the receipt thereof to the applicant.

(3) The Local Registrar of Citizen Registration, after the receipt of the application under sub-paragraph

(2) shall scrutinize the applications and after its verification, prepare a consolidated list thereof which shall contain the names of the following persons, namely:—

(a) persons whose names appear in any of the 3[electoral rolls upto the midnight of the 24th day of March, 1971] or in National Register of Citizens, 1951;

(b) descendants of the persons mentioned in clause (a) above.

3. Scrutiny of applications.—(1) The scrutiny of applications received under subparagraph (3) of paragraph 2 shall be made by comparing the information stated in the application form with the official records and the persons, of whom the information is found in order, shall be eligible for inclusion of their names in the consolidated list.

(2) The names of persons who have been declared as illegal migrants or foreigners by the competent authority shall not be included in the consolidated list:

Provided that the names of persons who came in the State of Assam after 1966 and before the 25th March, 1971 and registered themselves with the Foreigner Registration Regional Officer and who

have not been declared as illegal migrants or foreigners by the competent authority shall be eligible to be included in the consolidated List.

(3) The names of persons who are originally inhabitants of the State of Assam and their children and descendants, who are Citizens of India, shall be included in the consolidated list if the citizenship of such persons is ascertained beyond reasonable doubt and to the satisfaction of the registering authority;

(4) The Local Registrar of Citizens Registration may, in case of any doubt in respect of parental linkage, or any particular mentioned in the application received under subparagraph (3) of paragraph 2, refer the matter to the District Magistrate for investigation and his decision and

Local Registrar of Citizens registration shall also inform the same to the individual or the family;

(5) The Local Registrar Of Citizens Registration may, in respect of a person who—

(a) was residing in a place other than the State of Assam up to the midnight of the 24th day of March, 1971; or

(b) has shifted from one district to another within the State of Assam up to the midnight of the 24th day of March, 1971;

verify information relating to such person through interstate correspondence, or, as the case may be, through inter-district correspondence.]

4. Publication of consolidated list.---(1) The Local Registrar of Citizen Registration shall, after

completion of scrutiny of all applications, prepare the consolidated list village and ward wise and authenticate each entry in the list.

(2) The District Magistrate, shall cause to publish the consolidated list, prepared and authenticated under sub-paragraph (1), as, draft; of National Registrar of Indian Citizens in the State of Assam, and cause to publish a public notice with regard to publication of the draft National Register of Indian Citizens in the State of Assam in the local news paper having wide circulation in the village and ward inviting objections and suggestions on it

(3) The Local Registrar of Citizen Registration may at any time before the final publication of the National Register of Indian Citizens in the State of Assam may cause or direct to cause verification of names of such persons considered necessary.

(4) The Local Registrar of Citizen Registration shall take special care in attending the instances of allegation of undue harassment, if brought to their notice during the conduct of verification and take necessary action as he may consider appropriate.

(5) The report of the verification shall be examined by the District Registrar of Citizen Registration.

(6) The District Registrar of Citizen Registration shall, by order, and for reasons to be recorded in writing for inclusion or, as the case may be, exclusion of names, dispose of the report of the verification, and the report of verification which are allowed for calculation of names and which are not allowed for inclusion shall be kept separately, village and ward wise along with a list of all such cases.

5. Publication of additional list.—(1) After the decision of the District Registrar of Citizens Registration under sub-paragraph 6) of paragraph 4, the additional list, if any, to the draft National Register of Indian Citizens shall be published in the manner specified under paragraph 2.

6. Claims and objection—(1) Any person may—
(a) whose names do not appear in the draft National Register of Indian Citizens published under paragraph 2 or in the additional list published under paragraph 4, file his claim, along with necessary documents in support of thereof; or

(b) object to inclusion of any name in the draft National Register of Indian Citizens published under paragraph 2 or in the additional list published under paragraph 4, within a period of thirty days from the

date of such publication, before the Local Registrar of Citizen Registration.

(2) The Local Registrar of Citizen Registration shall maintain the list of claims received under clause (a) of subparagraph (I) and the objections received under clause (b) of sub-paragraph (1) in separate registers in chronological order;

(3) The Local Registrar of Citizen Registration shall, give a notice to every person, who has filed his claim or objection under sub-paragraph (1) to file documents, if any, in support of his claim or objection, and after giving the reasonable opportunity of hearing to the applicant or objector, dispose of the claim or, as the case may be, the objection.

7. Publication of supplementary list.—The Local Registrar of Citizen Registration shall, after the disposal of claims and the objections under subparagraph (3) of paragraph 6, prepare and publish a supplementary list for inclusion or deletion of names, as the case may be, and thereafter, then Registrar General of citizens Registration shall publish the final National Register of Indian Citizens in the State of Assam.

8. Appeal—Any person, not satisfied with the outcome of the decisions of the claims and objections under paragraph. 7, may prefer appeal, before the designated Tribunal constituted under the Foreigners (Tribunals) Order, 1964 within a period of sixty days from the date of such order; and on the disposal of appeal by the Tribunals the names shall be included or deleted, as the case

may be, in the National Register of Indian Citizens
in the State of Assam.]

//True copy//

ANNEXURE P-5

| Supported PoI Documents containing Name and Photo | Supported PoI Documents containing Name and Photo |
|---|---|
| 1. Passport | 1. Passport |
| 2. PAN Card | 2. Bank Statement /passbook |
| 3. Ration Card/PDS Photo Card | 3. Post Office Account Statement/ passbook |
| 4. Voter ID | 4. Ration card |
| 5. Driving License | 5. Voter ID |
| 6. Government Photo ID Cards/ service photo identity card issued by PSU | 6. Driving License |
| 7. NREGS Job Card | 7. Government photo ID Cards/Service photo |

| | |
|--|---|
| 8. Photo ID issued by Institution | identity card issued by PSU |
| 9. Arms license | 8. Electricity Bill (not older than 3 months) |
| 10. Photo Bank ATM Card | 9. Water bill (not older than 3 months) |
| 11. Photo Credit Card | 10. Telephone Landline Bill (not older than 3 months) |
| 12. Pensioner Photo Card | 11. Property Tax Receipt (not older than 3 months) |
| 13. Freedom Fighter Photo Card | 12. Credit Card Statement (not older than 3 months) |
| 14. Kissan Photo Passbook | 13. Insurance Policy |
| 15. CGHS/ECHS Photo Card | 14. Signed letter having photo bank on letter head |
| 16. Address Card having name and photo issued by Department of Posts | 15. Signed Letter having Photo issued by registered |
| 17. Certificate of Identify having photo issued by Gazetted Officer or Teshildar on letterhead | |

| | |
|--|--|
| 18. Disability ID Card/ handicapped medical certificate issued by the respective State/UTs Governments/Administrations | company on letterhead 16. Signed letter having photo issued by recognized educational instruction on letter head 17. NREGS Job Card 18. Arms license 19. Pensioner card 20. Freedom Fighter Card 21. Kissan Passbook 22. CGHS/ECHS Card 23. Certificate of Address having photo issued by MP or MLA or Gazetted Officer or Tehsildar on letterhead |
|--|--|

24. Certificate of address
issued by village
panchayat head or its
equivalent authority (for
rural areas)

25. Income Tax
Assessment Order

26. Vehicle Registration
Certificate

27. Registered Sale/Lease
/Rent Agreement

28. Address Card having
photo issued by
Department of Posts

29. Caste and domicile
certificate having photo

| | |
|---|--|
| | issued by State Government 30. Disability ID Card/ handicapped medical certificate issued by the respective State/UT Government / Administration 31. Gas connection bill (not older than 3 months) 32. Passport of spouse 33. Passport of parents (in case of minor) |
| Supported PoR Documents containing Relationship details to Head of Family | |

- | | |
|--|--|
| <ol style="list-style-type: none">1. PDS Card2. MNREGA Job Card3. CGHS/State Government / ECHS / ESIC Medical Card4. Pension Card5. Army Canteen Card6. Passport7. Birth Certificate issued by Registrar of Birth, Municipal Corporation and other notified local Government bodies like Taluk, Tehsil, etc.8. Any other Central/State Government issued family entitlement document. | |
|--|--|

| Supported Proof of DoB Documents | |
|--|--|
| <ol style="list-style-type: none">1. Birth Certificate2. SSLC Book/Certificate3. Passport4. Certificate of Date of Birth issued by Group A Gazetted Officer on letterhead | |

//True copy//

ANNEXURE P-6

THE CITIZENSHIP ACT, 1955, SECTION 14A

*[14A. Issue of national identity cards.-

(1) The Central Government may compulsorily register every citizen of India and issue national identity card to him.

(2) The Central Government may maintain a National Register of Indian Citizens and for that purpose establish a National Registration Authority.

(3) On and from the date of commencement of the Citizenship (Amendment) Act, 2003., the Registrar General, India, appointed under sub-section (1) of section 3 of the Registration of Births and Deaths Act, 1969(18 of 1969) shall act as the National

Registration Authority and he shall function as the Registrar General of Citizen Registration.

(4) The Central Government may appoint such other officers and staff as may be required to assist the Registrar General of Citizen Registration in discharging his functions and responsibilities.

(5) The procedure to be followed in compulsory registration of the citizens of India shall be such as may be prescribed.]

*[Inserted by Citizenship Amendment Act, 2003 (6 of 2004)], dt. 7-1-2004 w.e.f. 3-12-2004

//True copy//